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MAURITANIA

[18 January 2001]

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GE.01-40110 (E)

I. GENERAL INFORMATION

A. Geographical data

1. The Islamic Republic of Mauritania lies between lat. 15° and 27° N and long. 6° and 19° W , with a surface area of 1,037,000 km².

2. The country is bounded on the north-west by Western Sahara, on the north by Algeria, on the east by Mali, on the south by Mali and Senegal and on the west by the Atlantic Ocean.

3. In the central and northern parts of the country the landscape is in the form of mountainous plateaus, such as the Adrar and Tagant Massifs, which rise to a height of 400 to 800 m. The Senegal River valley, known as Chemama, extends through the south, while the remainder of the country consists chiefly of sand-dune formations.

4. Mauritania is divided into four climate zones:

(a) The pre-Sahelian or Senegal River zone, which is characterized by annual rainfall of as much as 300-400 mm and flood recession agriculture;

(b) The Sahelian zone, which has a dry climate characterized by an annual rainfall of between 100 and 300 mm;

(c) The vast Saharan zone in the north, where rainfall is highly irregular, totalling less than 100 mm a year, and sources of water are scarce outside a few oases where the introduction of large palm plantations has fostered the growth of sizeable settlements;

(d) A coastal zone influenced by the Atlantic Ocean.

5. Mauritania was severely affected by the 1972-1984 drought, which resulted in major population movements and significantly limited the country's ability to engage in agriculture and livestock-raising, causing the standard of living in rural areas to decline. Despite increased rainfall in recent years, the social and economic situation in these areas remains fragile.

B. Population and social development

6. The population of Mauritania was estimated at 2,350,000 inhabitants in 1996. With regard to its structure, the population comprises an Arab majority and non-Arabic-speaking Pular, Soninke and Wolof. These groups have lived in harmony, unity and solidarity for centuries and have succeeded in forging a united and brotherly nation both before and during the period of colonization and in their new modern State.

7. In terms of beliefs, the Mauritanian people is exclusively Muslim. Mauritanians have always been Sunni Muslims, following the Malakite rite. This is a moderate form of Islam, free from any sectarianism or dogmatism. Owing to its tolerance, it encourages solidarity, fosters unity, disdains violence and hatred and combats arbitrariness and oppression. It has been the true unifying agent of the national character.

8. The annual population growth rate is 2.9 per cent; life expectancy at birth is 51.3 years and the fertility rate is 6.32 per cent.

9. The worsening of climatic conditions during the past 20 years as a result of drought has led to a massive movement of population towards the towns and thus to an urbanization fraught with problems. In 1970 rural nomads accounted for 72 per cent of the total population; this proportion fell to 32.9 per cent in 1977 and 11.4 per cent in 1988.

10. A breakdown of the population by age group reveals that half the population is under the age of 18.

11. The population policy statement adopted by the Government sets sustainable improvement in living conditions as the main goal; this is to be achieved through the continuation of ambitious poverty-reduction, literacy, food security, land reform and women's programmes.

12. An improvement in the main socio-economic indicators reflects the progress that has been achieved in the area of social development during the past decade, as seen from the following table:

SOCIO-ECONOMIC INDICATORS	1988	1998
Total population (thousands)	1 864	2 493
Area (km²)	1 030 700	
Population density (inhabitants/km²)	1.8	2.4
Per capita GDP (in local currency, ouguiyas)		80 271
Access to heath-care services (%)	33	79
Access to drinking water (installations)	435	2 018
Access to adequate sanitation facilities	50	61
Crude primary school enrolment rate (%)	52.2	86.00
Crude secondary enrolment rate (%)		37.4
Boys		39.4
Girls		35.3
Higher education (students registered) (20-24 years)	1 997	9 147
Literacy rate (%)	38.4	52.4
Aged 15 years and over (%)		50.8
GDP growth (%)		2.29
Life expectancy at birth (years)	48.3	52.8
Crude birth rate (%)	45.2	43.7
Crude mortality rate (%)	18.1	14.1
Infant mortality (per 1,000 live births)	124	105.5
Maternal mortality (per 100,000 live births)	960	904
Fertility rate (children per woman)	6.3	6.3
Number of inhabitants per doctor	10 225	9 518
Urban population (%)	41.6	53.0
Rural population (%)	58.4	47.00
Annual growth rate (%)		
Total population	2.93	2.98
Urban population		5.3
Rural population		0.49
Active population (thousands)	583 241	728 462
Crude participation rate (%)	31.11	29.2

II. ADMINISTRATIVE AND POLITICAL STRUCTURES

A. Administrative structures

13. Mauritania is divided into 13 wilayas (regions), including the Nouakchott Capital District. Each wilaya forms a decentralized administrative unit. Wilayas are divided into moughataas (departments), which are subdivided into districts. The smallest administrative unit is the commune. There are 53 moughataas and 208 communes in the country.

14. Each wilaya is under the authority of a wali (governor), who represents the executive power; moughataas are headed by a hakem (prefect) and districts by a district chief.

15. Since 1989 the Government has been carrying out an administrative and institutional reform aimed at reorganizing the civil service so that it better meets the needs of the population. Decentralization of administrative structures has been the strategic tool of choice, mainly because it is better suited to solving administrative, organizational and institutional problems that were previously dealt with by centralized systems.

16. Decentralization works particularly well in the areas of education, health care and rural development because of their impact on the population's daily life.

B. Political structures

17. Mauritania's modern political history can be divided into three distinct periods:

(a) French colonial rule (1903-1960);

(b) The period of emergency rule under two separate regimes:

(i) The civilian regime marked by single-party rule by the Parti du peuple mauritanien (1961-1978);

(ii) The military regime, with power concentrated in the hands of military committees (1978-1991);

(c) Multiparty democracy (since 1991), with a Constitution adopted following a popular referendum.

18. For practical reasons, this document will focus on the political structures set up since the advent of multiparty democracy.

19. The Constitution establishes the political, economic, cultural and social rights of all segments of Mauritanian society and reaffirms Mauritania's commitment to the Universal Declaration of Human Rights and to the African Charter of Human and Peoples' Rights. It guarantees the separation of powers, but also provides for a balance between them.

1. The President of the Republic

20. The President of the Republic is the guarantor of the Constitution. He personifies the State and ensures the regular and ongoing functioning of government. He is elected to a six-year term by direct universal suffrage. In order to avoid the undue influence of particular groups, every presidential candidate must be sponsored by 50 municipal councillors, who must represent at least 10 wilayas; no wilaya can provide more than one fifth of a candidate's sponsors.

2. The Government

21. Under the leadership of the Prime Minister, the Government ensures that general State policy is implemented in accordance with guidelines issued by the President of the Republic. Members of the Government are appointed by the President of the Republic on the proposal of the Prime Minister.

3. Parliament

22. Parliament is bicameral, comprising the Senate and the National Assembly.

23. Deputies to the National Assembly are elected to a five-year term by direct universal suffrage, while senators are elected to a six-year term by indirect universal suffrage and represent territorial communities and Mauritanians living abroad. One third of the Senate's membership is renewed every two years.

24. Mauritanian legislation covers the fundamental rights and duties of persons, nationality, alien residency requirements, electoral regulations and territorial division into constituencies, regulations governing the ownership of property, the general organization of the civil service, economic and social activities of the State and so forth.

25. The National Assembly may dissolve the Government by a vote of no confidence or by passing a motion of censure.

4. The judiciary

26. The judiciary is independent of the legislative and executive branches.

27. The President of the Republic is the guarantor of the independence of the judiciary. He is assisted in this role by the Supreme Council of the Judiciary, of which he is President, and which is composed of:

(a) The Minister of Justice, Vice-President;

(b) The President of the Supreme Court, member;

(c) The most senior Vice-President of the Supreme Court, member;

(d) The Procurator-General attached to the Supreme Court, member;

(e) The Inspector-General of the judiciary and prisons administration, member;

(f) Three judges elected by their peers to a two-year term, members;

(g) A non-parliamentary representative of the Senate who is appointed each judicial year by the President of the Senate, member;

(h) A non-parliamentary representative of the National Assembly who is appointed each judicial year by the President of the Assembly, member.

28. The law guarantees the independence of judges in issuing judgements and protects them from any form of pressure that might influence them in the exercise of their functions (art. 15 of Organic Act No. 94-012 of 17 February 1994, on the status of the judiciary).

29. In Mauritania justice is administered by the following institutions:

(a) Moughataa courts. These courts have a single judge who presides over the proceedings and is assisted by two co-magistrates;

(b) Wilaya courts. These comprise four divisions: civil, commercial, administrative and criminal; there are also one or more investigative units. The prosecution is represented in these courts by a Procurator of the Republic or one of his deputies. Each division is presided by a judge who is assisted by two magistrates with consultative powers;

(c) Labour courts. Labour courts are presided by a judge and co-magistrates, as required by the Labour Code;

(d) Appeals Court. The Appeals Court, which has the same divisions as the wilaya courts, hears appeals against judgements rendered at first instance. The prosecution is represented by the Appeals Court Procurator or one of his deputies;

(e) Criminal courts. A criminal court whose jurisdiction and functioning are determined by the Code of Criminal Procedure is established at the administrative seat of each wilaya;

(f) Supreme Court. This court has a president, four vice-presidents, each of whom is head of a division, and several advisers. The Supreme Court has the following divisions:

(i) Administrative;

(ii) Civil and commercial;

(iii) Social;

(iv) Criminal.

30. In administrative matters the Supreme Court has jurisdiction over illegality proceedings, determination of the lawfulness of individual administrative or regulatory acts, litigation concerning the status of public officials or civil servants and local authorities and disputes relating to the public domain.

31. In judicial matters the Supreme Court rules on appeals relating to lack of jurisdiction or violations of the law in respect of decisions rendered without right of appeal by the courts or by the Council for the arbitration of collective labour disputes; it also rules on judgements rendered with or without right of appeal by the moughataa courts. In addition, the Supreme Court may rule on:

(a) Applications for review;

(b) Applications for referral to another court;

(c) Conflict-of-jurisdiction applications;

(d) Appeals against judicial misconduct;

(e) Proceedings against judges and certain categories of civil servant, as provided for in the Code of Criminal Procedure;

(f) Conflicting decisions judgements rendered without right of appeal by different courts in cases involving the same parties and using the same arguments.

32. The Supreme Court may also be invited to give its opinion on questions of a legal nature raised by ministers in connection with the functioning of their departments.

5. Other institutional bodies

33. In addition to the three traditional powers (legislative, executive and judicial), and with a view to strengthening the rule of law, existing democratic organizations have been supported by the establishment of the following bodies:

(a) Constitutional Council. This body oversees the regularity of elections, considers applications and rules on the constitutionality of laws. It has six members, two of whom are appointed for three years, two for six years and two for nine years. The President of the Republic nominates a member of each group and appoints the Council President from among them. The President of the National Assembly nominates one member for nine years and one for three years. The President of the Senate nominates one member for six years;

(b) High Court of Justice. This Court is composed of members who are elected in equal number by the National Assembly and the Senate from among their members after each parliamentary election. The Court has jurisdiction to hear cases of aggravated high treason by the President of the Republic, the Prime Minister or members of the Government;

(c) Court of Audit. The Court of Audit is the highest institution for the audit of public finances. By its ongoing and systematic verification, information and advisory activities it contributes to the achievement of the following goals:

(i) Protection of public finances;

(ii) Improvement of management methods and techniques;

(iii) Rationalization of administrative procedures.

The Court of Audit is composed of the following members:

(i) The President of the Court;

(ii) The presidents of the divisions;

(iii) The presidents of the sections;

(iv) Advisers;

(v) Auditors.

(d) Supreme Islamic Council. This institution is composed of five members appointed by the President of the Republic. It issues opinions on matters on which it is consulted by the President of the Republic.

(e) Economic and Social Council. The Economic and Social Council is requested by the President of the Republic to give its views on draft laws, orders and decrees of an economic and social nature and on bills of the same kind that are submitted to him. The Council may also be consulted by the President of the Republic on any economic or social matter of concern to the State.

(f) Mediator of the Republic. The Mediator of the Republic is an "independent authority"; he is appointed for an indefinite term of office. He receives applications from citizens relating to unsettled disputes in their relations with State administrations, territorial public authorities, public establishments and all other public service bodies. He advises the President of the Republic on disputes between citizens and the administration. He may also take part in improving the functioning of administrative bodies whose unsatisfactory operation he has found to be harmful to citizens by formulating proposals and suggestions designed to improve the functioning of the bodies concerned. The Second World Congress of Ombudsmen and Mediators of French-Speaking Countries, which was held at Nouakchott from 19 to 21 May 1998 and had as its theme the topic "Ombudsmen and Mediators: the independence of the institution in the service of democracy", paid a tribute to this institution's renown, its independence and its ability to play a regulatory and mediation role.

III. CONSTITUTIONAL GUARANTEES AND GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

A. Constitutional guarantees

34. In its preamble, the Constitution of 20 July 1991 proclaims the attachment of the Mauritanian people to Islam and to the principles of democracy, as defined by the Universal Declaration of Human Rights and the African Charter of Human and Peoples' Rights, as well as by other international conventions to which Mauritania is a party.

35. The Constitution gives human rights constitutional status by providing that "freedom, equality and human dignity can only be assured in a society that respects the rule of law" and reaffirms the commitment of the Mauritanian people to guaranteeing the following rights and principles:

(a) The right to equality;

(b) Human rights and fundamental freedoms;

(c) The right to own property;

(d) Political and trade union freedoms;

(e) Economic and social rights; and

(f) Rights pertaining to the family, the basic unit of Islamic society.

36. Article 10 of the Constitution strengthens Mauritania's commitment to human rights and fundamental freedoms by providing that the State shall guarantee public and individual freedoms to all its citizens and, in particular:

(a) Freedom of movement and residence in any part of the territory of the Republic;

(b) Freedom to enter and leave the national territory;

(c) Freedom of opinion and of thought;

(d) Freedom of expression;

(e) Freedom of assembly;

(f) Freedom to join the political or trade union organization of their choice;

(g) Freedom of trade and industry;

(h) Freedom of intellectual, artistic and scientific creative effort.

37. Article 13, paragraph 3, of the Constitution provides that the honour and privacy of the citizen and the inviolability of his person, his home and his correspondence are protected by law.

38. Under article 80 of the Constitution, international treaties or agreements ratified or approved in the regular manner take precedence, as soon as they are published, over national laws. They may then be invoked before the national courts.

B. Treaty guarantees

39. In addition to the Convention on the Rights of the Child, Mauritania has ratified many other international human rights conventions and the protocols additional thereto. They are the following:

(a) African Charter on Human and Peoples' Rights;

(b) OAU Convention governing the Specific Aspects of Refugee Problems in Africa;

(c) Convention on the Political Rights of Women;

(d) International Convention on the Elimination of All Forms of Racial Discrimination;

(e) International Convention against Apartheid in Sports;

(f) Convention relating to the Status of Refugees;

(g) Slavery Convention;

(h) Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery;

(i) Protocol amending the Slavery Convention;

(j) Forced Labour Convention (Convention (No. 29) adopted on 28 June 1930 by the International Labour Organization);

(k) Abolition of Forced Labour Convention (Convention (No. 105) adopted on 25 June 1957 by the International Labour Organization);

(l) Convention for the suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;

(m) International Convention on the Suppression and Punishment of the Crime of Apartheid;

(n) Convention on the Elimination of All Forms of Discrimination against Women.

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HAITI

[5 January 2001]

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I. LAND AND PEOPLE

General characteristics of the country

1. The Republic of Haiti, which has a surface area of 27,750 square kilometres, shares the island of Haiti, in the Caribbean Sea, with the Dominican Republic. Its latitude gives it a tropical climate, with temperatures varying between 25° C in winter and 35° C in summer. Annual rainfall averages 1,056 millimetres.

2. The Republic of Haiti is divided into nine departments, 41 arrondissements, 133 communes, 55 quartiers and 561 communal sections (art. 9 of the Constitution). Each department has a seat, which is the department's main town.

The departmental seats are: Port-au-Prince, the capital (Ouest), Cap-Haïtien (Nord), Port-de-Paix (Nord-Ouest), Fort-Liberté (Nord-Est), Gonaïves (l'Artibonite), Hinche (Centre), Cayes (Sud), Jacmel (Sud-Est), and Jérémie (Grande-Anse).

3. The national currency is the gourde; it is divided into centimes (art. 6 of the Constitution). The current rate of exchange is about 24 gourdes for US$ 1.

4. The two official languages are Creole and French.

5. There are three major denominations: Catholicism, Protestanism and Voodoo. All religions and faiths may be freely exercised (art. 30 of the Constitution).

6. The most recent census, conducted in 1982, put the population of Haiti at 5,053,191 inhabitants (2,449,550 men and 2,603,640 women). The population in 2000 was officially estimated at 7,958,964 inhabitants, for a population density of 285 inhabitants per square kilometre; 65 per cent of the population live in rural areas.

7. The population of Haiti is characterized by its extreme youthfulness. Forty per cent of the population is under the age of 15, and 15 per cent under the age of 5. This is the combined result of internal demographic factors, a relatively high birth rate, a moderate death rate and mass emigration of working-age inhabitants. According to the estimates of the Haitian Institute of Statistics and Information Technology (IHSI) and the Latin American Demographic Centre (CELADE), between 1995 and 2000 the crude birth rate was 34.1 per cent and the crude death rate 10.72 per cent. During that same period, women of childbearing age (15 to 49 years) represented about 45 per cent of the total population.

8. More than half the total population, or 56.2 per cent, is of working age (15 to 64 years). People aged 65 and over constitute about 3.8 per cent of the total population.

9. The average annual population growth rate rose from 2.03 per cent between 1985 and 1990 to 2.08 per cent between 1995 and 2000. That increase is essentially the result of a high fertility rate (an average of 4.8 children per woman in 1995).

Socio-economic indicators

GDP (millions of US$)	2 767.75
Infant mortality (per 1,000)	67.48
Life expectancy at birth (years)	58.4
Per capita GNP (in US$)	356.4
External debt (millions of US$)	1 174.5

II. GENERAL POLITICAL STRUCTURE

10. The country's general political structure is set forth in the Constitution of 29 March 1987.

11. The preamble to the Constitution refers in particular to the 1948 Universal Declaration of Human Rights.

12. Article 1 of the Constitution stipulates: "Haiti is an indivisible, sovereign, independent, cooperatist, free, democratic and social republic."

13. The Constitution establishes a number of independent institutions, inter alia the Permanent Electoral Council, the Conciliation Commission and the Office of Citizen Protection.

14. The Office of Citizen Protection, headed by the Protector of Citizens, has a mandate to "protect all individuals against any form of abuse by the Government" (art. 207).

15. The exercise of national sovereignty is delegated to three branches of government, each of which is independent of the others (arts. 59 and 60).

16. Legislative power is vested in two representative houses, the House of Deputies and the Senate, which together form the legislature, or Parliament (art. 88).

17. Article 111-8 of the Constitution provides that in no case may the House of Deputies or the Senate be dissolved or adjourned, or the terms of their members extended.

18. Executive power is vested in the President of the Republic, who is Head of State, and the Government, which is headed by a prime minister (art. 133).

19. Under article 136 of the Constitution, the President of the Republic ensures respect for and enforcement of the Constitution, institutional stability, the regular operation of the public authorities and the continuity of the State.

20. The Government is composed of the Prime Minister, the Ministers and the Secretary of State (art. 155), and conducts the policy of the nation (art. 156). It is headed by the Prime Minister (art. 133).

21. The Constitution provides for genuine regional executive power through the territorial divisions known as the communal sections, the communes and the departments (art. 61).

22. Under article 173 of the Constitution, judicial power is vested in the Supreme Court, (Cour de Cassation), the Courts of Appeal and of First Instance, courts of peace and special courts, whose number, composition, organization, operation and jurisdiction are established by law.

III. LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

23. Title III of the Constitution deals with the nature of citizenship (arts. 16-18), basic rights (arts. 19-51) and the duties of citizens (arts. 52-52.3).

24. Citizenship entails both civil and political rights (art. 16). The age of majority is 18 years (art. 16.2). Haitians are equal before the law, subject to the special advantages conferred on native-born Haitians who have never renounced their nationality (art. 18).

25. Article 54 of the Constitution provides that foreigners on the territory of the Republic shall enjoy the same protection as that accorded to Haitians under the law.

26. The Constitution lists a number of rights and guarantees, more particularly the right to life and health (arts. 19-23), to individual liberty (arts. 24-27.1), to freedom of expression (arts. 28-29.1), conscience (arts. 30-30.2), and assembly and association (arts. 31-31.3), to education (arts. 32-34.1), to freedom to work (arts. 25-35.6), the guarantee of property (arts. 36-39), the right to information (art. 40), and the right to security (arts. 41-51).

27. The rights enshrined in international human rights instruments ratified in accordance with the rules in force in the Republic of Haiti are part of domestic legislation. In that respect, article 276.2 of the Constitution provides:

> "Once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them."

28. The Constitution limits the Government's ability to suspend the guarantees mentioned above. In that respect, article 278 of the Constitution provides:

> "No place or part of the territory may be declared in a state of siege except in the event of civil war or invasion by a foreign force."

IV. INFORMATION AND PUBLICITY

29. Article 40 of the Constitution is worded as follows:

> "The State has the obligation to publicize in the oral, written and televised press, in the Creole and French languages, all laws, orders, decrees, international agreements, treaties and conventions on everything affecting national life, except information concerning national security."

30. The texts of international instruments are published in *Le Moniteur*, the Republic's official gazette. The Government plans to disseminate them more broadly in the near future.

31. At the initiative of non-governmental organizations working in the human rights field, several seminars and workshops have been organized in different parts of the country for different sectors of the population with a view to making human rights more widely known.

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REPUBLIC OF MOLDOVA

[30 April 2001]

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I. LAND AND PEOPLE

1. General background information:

Official name of the country: Republic of Moldova

Geographic location: in the south-east of Europe, between Romania and Ukraine, in the basin of the Prut and Nistru Rivers

Land area: 33,800 km

Population: 4,320,000 (1 January 1997)

Population density: 128 inhabitants/km^2

Capital: Chişnău city (approximately 780,000 inhabitants)

National Day: Independence Day, 27 August

State flag: three vertical, equal stripes, red, yellow and blue, with the arms of the Republic in the middle

Form of government: parliamentary republic

National legislature: single-chamber parliament, composed of 101 members directly elected through proportional representation

Head of State: President

Administrative divisions: 10 counties, 1 Administrative Territorial Unit, 14 municipalities, 51 towns, 662 villages

Date of admission to the United Nations: 2 March 1992

2. Economic Data:

External debt: US$ 1.3 billion (1998)

External debt administered by the Government on 1 April 2000: 749.9 million lei

GDP (1991): 12,204,000,000 lei, constituting approximately 95.6 per cent (in comparative prices) of GDP in 1998

Unemployment rate: 11.1 per cent in 1999, according to the classification of the International Labour Organization (ILO). The economically active population constituted 46.1 per cent of the total population. The employed population constituted 41.0 per cent of the total population and 54.5 per cent of the population over 15.

The number of unemployed was 34,900 officially registered on 1 January 2000 (187,000 according to the ILO classification)

3. Other human development parameters:

Table 1

Human Development Index

Life expectancy at birth (years) 1998	Adult literacy rate (%) 1998	Combined first, second and third-level gross enrolment ratio (%) 1998	Real GNP per capita (PPPS) 1998	Life expectancy index 1998	Education index 1998	GDP index 1998	Human development index
67.0	96.4	73.4	2 042	0.700	0.887	0.503	0.697

Table 2

Human Development Profile

Life expectancy at birth (years) 1998	Population with access to:			Daily calories supply per capita 1998	Adult literacy rate 1998	Enrolment ratio for all levels (%) 1998	Periodicals (pieces per capita) 1998	TV-sets (pieces per 100 persons) 1998	Gross Domestic Product per capita (GDP) US$ 1997	Gross National Product (GNP) per capita US$ 1997
	Health care (%) 1998	Safe water (%) 1998	Sanitation (%) 1998							
67.0	100	...	...	1 980.3	96.4	73.4	136	15	2 207	545

Table 3

Demographic Profile

Estimated population (millions)			Annual population growth rate (%)		Rural population (as % of total) 1998	General birth rate 1998	General death rate 1998	General fertility rate 1997	Contraceptive prevalence rate, any method (%) 1998
1960	1998	2000	1960-1998	1998-2000					
3.0	4.3	4.3	0.85	-0.45	54	10.9	11.1	1.67	27*

* Including women registered as using intrauterine and oral contraceptive methods, as a percentage of women 15-49 years old.

Table 4

Human Development Index

Life expectancy at birth (years)		Infant mortality rate (per 1,000 live births)		Adult literacy rate (%) 1989	Enrolment ratio for all levels (%, age 7-22) 1998	Illiterate adults (age 15 and above; millions) 1989	Illiterate females (age 15 and above; millions) 1989	Children not in primary school (thousands) 1998	Children dying before age five (thousands) 1998
1959	1998	1960	1998						
68.1	67.0	48.2	17.8	96.4	71	0.1	0.09	11.0	1.1

Source: Tables 1-4 from National Human Development Report: Republic of Moldova 1999, UNDP.

4. Population development, by age category:

	1990	1995	1996	1997	1998
Total population	4 366.3	4 334.4	4 320.0	4 304.7	4 293.0
Males (thousands)	2 082.0	2 071.8	2 065.0	2 057.6	2 056.3
% of total	47.7	47.8	47.8	47.8	47.9
Urban population (thousands)	2 073.6	2 004.1	1 995.3	1 987.7	1 976.3
% of total	47.5	46.3	46.2	46.2	46.0
Structure of population according to age:					
Under the employment age (%)	29.7	28.6	28.2	27.6	27.4
Of employment age (%)	54.9	55.6	56.0	56.4	56.5
Of retirement age (60 for women, 65 for men)	15.4	15.8	15.8	16.0	16.1
Population natural increase rate	8.0	0.8	0.5	0.0	-0.2
Birth rate	17.7	13.0	12.0	11.9	0.9
Mortality rate	9.7	12.2	11.5	11.9	11.1
Marriage rate	9.4	7.5	6.0	6.1	6.0
Divorce rate	3.0	3.4	3.1	3.1	3.0
Infant mortality rate (per 1 000 live births)	19.0	21.2	20.2	19.9	17.8

II. POLITIC STRUCTURE AND GENERAL LEGISLATIVE SYSTEM IN WHICH HUMAN RIGHTS ARE PROTECTED

5. The Republic of Moldova, as a sovereign and independent State, entered the international arena after the collapse of the USSR, by passing the Declaration of Sovereignty of the Soviet Socialist Moldovan Republic on 23 June 1990 and the Declaration of Independence of the Republic of Moldova on 27 August 1991.

6. As a part of the USSR, Soviet Moldova witnessed the horrors of genocide, manifested through mass deportations, organized starvation and forced denationalization. The Russian language was imposed as the official language.

7. In the last decade, political and cultural activities were carried out in the Republic of Moldova for the democratization of social and political life and for the emancipation of the population. The Republic of Moldova passed the Law on the Return of the Moldovan Language to the Latin Alphabet No. 3462-XI, the Law on the Statute of the State Language No. 3464-XI, the Law on the Use of Languages Spoken in Moldova No. 3465-XI (31 August 1989), the Parliamentary Decision "On the Approval of the Regulation regarding the State Flag of the Moldavian Soviet Socialist Republic" and the Law on the State Anthem of the Republic of Moldova; it instituted the position of the President of the country (3 September 1990); it selected the ancient symbols - the eagle and the auroch's head - as the State Escutcheon

(3 November 1990); it changed the name of the country from the Moldavian Soviet Socialist Republic to the Republic of Moldova (23 May 1991). So far, the Republic of Moldova has established diplomatic relations with about 140 States.

8. At the same time, the process of State consolidation was seriously affected by the separatist actions of certain forces in the eastern part of the country. Over the centuries, a multinational population had formed, a part of which (Gagauz and Bulgarians - about 3.2 per cent) had concentrated in the southern part of the country. In order to prevent the separation of the Republic of Moldova from the Soviet bloc, the Soviet authorities decided to use the issue of national separatism as a means of blackmail. The coordinated policy of the separatist leaders in the district on the left bank of the Nistru River, of Bender town and the Gagauz region, was aimed against the constitution of a new unitary and independent State. It had as its purpose the preservation of the old ideological, political and economic orientations. Consequently, on 2 September 1990, in Parcani village, a meeting of a group of all levels of deputies chosen in the eastern districts of the Republic of Moldova (Transnistria) was held. This meeting proclaimed itself a congress and proclaimed the constitution of "The Moldovan Soviet Socialist Republic of Transnistria as a component of the USSR". The majority of the 64 deputies who represented the eastern districts and Bender town in the Parliament of the Republic of Moldova, participated in that congress.

9. This act took the political fight for the sovereignty of the Republic of Moldova out of the legal, constitutional limits. As a result, the initiative was taken over by those political forces in Transnistria which, in order to accomplish their goals, began to use tougher and tougher methods from the totalitarian arsenal.

10. More and more of those 64 deputies, either on their own initiative or under the pressure of the Transnistrian extremist forces, did not participate in the working meetings of the Parliament of Moldova. Political extremism started to dominate Transnistria, becoming a "norm", to the detriment of pluralism of opinion and dialogue.

11. As a consequence of the implementation of anti-constitutional political procedures, determined and favoured to a great extent by the political forces in Moscow, who pleaded in favour of maintaining the Soviet Union, premises for the violation of fundamental human rights appeared in the eastern districts of the Republic of Moldova.

12. Currently there is a clearly defined tendency in the Republic of Moldova of creating the mechanisms and key factors for the implementation of a system of promotion and respect of human rights, which is based in particular on international legal instruments. Title II of the Constitution of the Republic of Moldova is entitled Fundamental Rights, Liberties and Duties, and is devoted to them, taking into consideration their importance and essence.

13. Reform of the national legal system started in the Republic of Moldova with independence, and legal and judicial reform started in January 1993. The subsequent passage of several laws and the introduction of modifications in the Penal Procedure Code and the Penal Code offered the Republic of Moldova the opportunity to get closer to international standards, especially to the European ones.

14. The Republic of Moldova has signed and ratified a set of international documents relevant for different spheres: the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135 of 18 December 1992) and others, including those of the Organization for Security and Cooperation in Europe that imply commitments (pledges) regarding the protection of ethnic minorities; the final documents of the Madrid and Vienna meetings on security and cooperation in Europe; the document of the Copenhagen Conference on the Human Dimension; the Charter of Paris for a New Europe. The Framework Convention for the Protection of National Minorities of the Council of Europe was ratified by the Parliament of the Republic of Moldova on 22 October 1996.

15. Several drafts of the Constitution were examined by the European Commission for Democracy through Law (Venice Commission), and the text, of the new Constitution, adopted on 29 July 1994, follows, to a great extent, the experts' comments. The contribution of international experts was important. They made necessary specifications and corrections, and thus a modern constitution was elaborated, in accordance with the conditions for guaranteeing a legal system which should correspond to the current exigencies in the field of human rights protection.

16. Article 1 stipulates that the Republic of Moldova, governed by the rule of law, is a democratic State, in which the dignity of people, their rights and freedoms, the open development of human personality, justice and political pluralism represent supreme values that shall be guaranteed.

17. "Democracy in the Republic of Moldova is exercised under conditions of political pluralism, which is incompatible with dictatorship or totalitarianism, and no ideology may be pronounced as an official ideology of the State" (art. 5).

18. The national unity "constitutes the foundation of the State", which is "the common and indivisible motherland of all its citizens" (art. 10).

19. Constitutional provisions regarding human rights and freedoms are interpreted and applied in conformity with the Universal Declaration of Human Rights, with the conventions and other treaties to which the Republic of Moldova is a party (art. 4, para. 1).

20. The Constitution regulates issues regarding economic relations in society in accordance with the new principles, ensures the right to property, and provides that property may not be used to encroach upon or damage the rights, freedoms and dignity of people (art. 9).

21. In summary, we can say that the main provisions contained in the Constitution are the following: political pluralism, separation of and collaboration among the legislative, executive and judicial powers, the right of all citizens to protection and to develop and express their ethnic, cultural, linguistic and religious identity.

22. The Constitution determines how international treaties are to be enforced in the domestic legal system. Taking into account the importance of respecting fundamental rights and freedoms, the legislator emphasized the supremacy of the international law of human rights and, in article 8 of the Constitution, the Republic of Moldova pledges itself to respect the Charter of the United Nations and the international treaties to which it is a party.

23. The principle of the priority of international documents was recognized also by the Supreme Court of Justice which, after studying the practice of enforcing these constitutional provisions, adopted on 30 January 1996, its decision No. 2 "On the practice in the courts of law in enforcing some provisions of the Constitution of the Republic of Moldova" which puts the courts under the obligation, "... in cases when domestic legislation is contrary to international documents, to apply provisions of the international document to which the Republic of Moldova is a party".

24. Following the constitutional provisions, most of the legislative documents of the Republic of Moldova stipulate the supremacy of international law: the Civil Code, the Civil Procedure Code, the Criminal Code, the Criminal Procedure Code, the Marriage and Family Code, etc.

25. A special role is given in this field to the Constitutional Court which, on notification, examines the constitutionality of the international treaties to which Moldova is a party. In this context, the Constitutional Court applies the provisions of article 4, paragraph 2, of the Constitution, which stipulates: "Whenever disagreements occur between covenants and treaties regarding fundamental human rights signed by the Republic of Moldova and its own national laws, priority shall be given to the international regulations.

26. The rights and freedoms, contained in the Constitution of the Republic of Moldova reproduce, to a great extent, the rights proclaimed in the Universal Declaration of Human Rights and the European Convention of Human Rights, reaffirming that "in conformity with the Universal Declaration of Human Rights, the ideal of the free human being, as enjoying civil and political freedoms and released from fear and poverty, cannot be accomplished unless conditions which allows every person to enjoy his civil and political rights, as well as his economic, social and cultural rights, are created".

27. Economic, social and political rights constitute the foundation of the multifaceted and full development of the human being. They are no less important than civil and political rights, but their exercise depends also on the resources the society possesses. Yet, this does not mean that the State has no responsibility for guaranteeing them by progressively ensuring their exercise. For this reason, we consider that it is necessary for international bodies to lay stress on the right to development. The notion of development itself needs to be enriched and made more complex.

28. The non-abusive application of these provisions is included in the commitments made by the Republic of Moldova at the moment of its accession, as a full member, to the Council of Europe: national authorities assumed the responsibility to apply restrictions in the exercise of certain rights or freedoms and the exercise of rights and obligations provided by articles 54 and 55 of the Constitution of the Republic of Moldova only in cases strictly specified by law, in

special situations, such as defence of national security and of order, prevention of calamities and catastrophes, etc. In such cases, the restrictions enforced must be in proportion to the situation that caused it, and may not affect the existence of that right or liberty (art. 54 (2) of the Constitution).

29. In cases when provisions of the legislation dealing with fundamental human rights are in contradiction with the Constitution or with international conventions on human rights, the courts will directly apply the provisions of the latter.

30. Returning to these provisions, we need to mention that the Universal Declaration of Human Rights, the two International Covenants on Human Rights, as well as the European Convention on Human Rights admit, under certain circumstances, the existence of certain limitations and restrictions, which are not specified separately but are formulated with respect to certain rights and liberties, depending on their content. Thus, this means that they may be applied only if they are expressly provided by law, they are necessary in a democratic society for protecting national security, public order, public health and morals, the rights and liberties of others, etc., and they need to be proportionate to the cause that has given rise to them.

31. According to article 15 of the Constitution, citizens of the Republic of Moldova and aliens and stateless persons shall enjoy the same rights and duties except in cases provided by law (art. 19).

32. When the States adhered to the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights in 1996, they pledged to respect and guarantee to all individuals living in their territory, and who are under their jurisdiction, the rights recognized by the Covenant with no discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, social status, birth, or any other criteria. From the moment of adhesion to the European Convention on Human Rights, according to article 1 of this Convention, any individual under the jurisdiction of the signatory parties will be recognized as a holder of the rights and freedoms recognized by the Convention. This principle is equally valid for rights and freedoms recognized by Protocols Nos. 1, 4, 6 and 7. The Republic of Moldova, like all State parties to the Convention, recognizes these rights and freedoms not only for its citizens, but also for the citizens of other signatory States and also for those citizens of one State who are under the jurisdiction of another State which is not a party to the Convention, as well as for stateless people (European Commission for Human Rights, Decision No. 788/60 of 11 January 1961).

33. The general rule formulated by article 29 of the Vienna Convention on the Law of Treaties (1969) stipulates that an international treaty will be applied on the whole territory of a signatory State. Taking into account the fact that the European Convention on Human Rights sets forth that rights and freedoms shall be recognized for all individuals under the jurisdiction of the signatory parties, it follows that a State, as is the case of the Republic of Moldova, cannot be responsible for violations of human rights committed on the territory over which that State does not exercise a real jurisdiction. The Convention allows the exclusion of a certain part of the signatory State from the application area of the Convention.

34. Taking into account the situation in the territory on the left bank of the Nistru River (eastern region of the Republic of Moldova), as well as provisions of point 11 of notification 188 (195) of the Parliamentary Assembly of the Counsel of Europe, the Parliament of the Republic of Moldova, when ratifying the European Convention on Human Rights, considered it necessary to formulate a declaration by which the Republic of Moldova has denied its responsibility for acts committed in the territory of the self-proclaimed Nistrian Republic, with the intention to maintain this situation until the conflict in this region is finally solved.

35. The World Conference on Human Rights, held in Vienna in 1993, pronounced itself in favour of the creation and consolidation of human rights institutions. It is mentioned in documents adopted by the Conference that every State is entitled to institute those structures which will fully correspond to its needs.

36. In the last two years, legislative and executive bodies of the Republic of Moldova have paid special attention to issues related both to the respect of the constitutional human rights and freedoms and to their protection by the State in case of violation. We can certainly state that the carrying out of the legal and judicial reforms in the country is first of all aimed at improving the human rights protection by the courts. This is confirmed by the change in judicial structures and in the way they are constituted and in the prosecutor's role and functions. Also, a new Law on Notary was passed, and a new draft of the Law on Advocacy has been drafted.

37. At the last and penultimate parliamentary sessions, the Commission for Human Rights, Ethnic Minorities, Cults and Other External Communities worked together with the other permanent commissions.

38. Since 1991, the Department of National Relations and the Use of Languages (art. 27) has been working within the Government. The basic functions of this Department are the following:

Promotion of the State policy regarding national problems;

Representation within the State administration bodies both of the interests of major ethnic groups of the ethnic minority groups;

Ensuring, on the basis of the legislation in force, the use of the official State language and of other languages spoken on the territory of the country;

Support of the activity regarding the statutes of ethnic and cultural structures of the country;

Facilitating the implementation of programmes regarding the national culture of persons from Moldova living outside the republic, by helping them to establish connections with their historical motherland.

39. In the spring of 1996, the second International Conference of Ombudsmen and Human Rights Institutions was held in Chişinău. The problems of creating institutions for human rights protection in various countries were discussed at this Conference. The fact that such a

prestigious forum was held in the Republic of Moldova sped up the elaboration of a draft law on the institution for human rights protection in the country. During the elaboration of the draft of the law regarding human rights defenders, the experience of several European countries in the field was taken into consideration.

40. In October 1997, parliament passed the Law on Ombudsmen. In conformity with this law, parliament assigned three ombudsmen who, together with the staff, constituted an independent legal institution - the Center for Human Rights - that can have affiliates in various localities of the country.

41. The ombudsmen's activity is oriented towards ensuring guarantees for the respect of constitutional rights and freedoms by the central and local public administration bodies, by institutions, organizations and companies with different forms of property, as well as by non-governmental organizations. Ombudsmen contribute to the rehabilitation of citizens' rights, to the improvement of legislation in the field of human rights and to the improvement of the population's legal culture. In their activity, they follow the Constitution and other laws of the Republic of Moldova, the Universal Declaration of Human Rights and other international instruments to which the Republic of Moldova is a party.

42. Ombudsmen examine petitions addressed by citizens of the Republic of Moldova, by foreign citizens who live temporarily or permanently in the country, as well as by stateless persons, regarding the violation of their legitimate rights and interests in the Republic of Moldova. Ombudsmen may start, on their own initiative, examination of the identified cases of violation of human rights and freedoms. In cases when the violation of the plaintiff's rights are established, the ombudsman will submit his conclusion to the appropriate decision-making body or entity, with recommendations regarding the immediate rehabilitation of the plaintiff's rights. Also, he may appeal to the court, asking for the defence of the citizens' interests.

43. On the basis of the conclusion made after the examination of the citizens' petitions, the ombudsman may submit his proposal regarding the improvement of the current legislation in the field of ensuring human rights and freedoms to parliament, and, in cases where serious violations of constitutional rights and freedoms were identified, he has the right to submit a report when parliament is in session and to propose the constitution of a parliamentary committee for the examination of these cases.

44. Ombudsmen have the right to address the Constitutional Court and to request review of the constitutionality of the normative rulings adopted by parliament, the President of the country or by the Government, and to determine whether they are in conformity with the general principles and international documents regarding human rights.

45. Every year, the Center for Human Rights submits a report on the respect for human rights in the Republic of Moldova to parliament. The report refers to fields of social relations in which the most serious violations of human rights and freedoms were identified, to their causes, as well as to measures taken for their elimination, to the improvement of legislation and to the legal education of population. The report is made known to the citizens by its publication in the Monitorul Oficial of the Republic of Moldova.

46. According to article 39 of the Law on Ombudsmen, an Expert Council, composed of specialists in the field of constitutional human rights and freedoms, was created within the Center for Human Rights, aimed at providing consulting assistance. The Council elaborates recommendations on the drafts regarding the improvement of the legislation in the field of human rights and its conformity with international legal acts ratified by the Republic of Moldova, and initiates and elaborates drafts regarding collaboration with international organizations acting in the field of human rights protection, working actively with mass media and non-governmental organizations. Also in accordance with the Law, affiliates of the Center were opened in Bălti and Comrat towns.

47. In order to fulfil its obligations as a State party to the United Nations and other conventions on human rights, a National Commission responsible for Social Problems, headed by one of the Vice-Prime Ministers, was constituted. This Commission has as its objective the elaboration of the initial and periodical reports of the Republic of Moldova, as a State party to the United Nations conventions and other international conventions on human rights, and their submission, in accordance with the terms established by these conventions, to the authorized international bodies. Also, the Commission has the task of coordinating the activities of legal education and training of the population in the field of human rights.

48. Regarding this issue, it should be noted that the Commission does not receive any funding from external sources. In the context of the deep economic crisis facing the country at this stage of transition to a market economy, the financial support of international bodies for such activities would greatly contribute to the effectiveness of the implementation of the international conventions and of the reporting process, and would be highly appreciated by the Government of the Republic of Moldova.

49. We would also like to mention that on 18 June 1998, the first National Conference for Human Rights was held in Chişinău, under the aegis of the Ministry of Foreign Affairs of the Republic of Moldova, the National Center for Human Rights and of the Chişinău Office of the United Nations Development Programme. Representatives of State institutions, such as Government, parliament, the President's office, non-governmental organizations, universities, international organizations, as well as representatives of diplomatic missions accredited in Chişinău, participated in the Conference. Within the four working groups of the Conference, the National Report of the Republic of Moldova, "Human Rights: for a Sustainable Development", was concluded and was afterwards presented at the international conference held in Yalta in September 1998.

III. INFORMATION AND PUBLICITY

50. In the Republic of Moldova there is a diverse and pluralist informational market, in conformity with the role and position that the mass media should have in a State ruled by law. The mass media are required to cover a whole set of functions related to the creation of an efficient system of public control of State authorities. The press, television and radio are the main beneficiaries of the right to information. These public functions impose obligations on the mass media of responsibility equal to the State's duty to honour and guarantee the respect of fundamental human rights and freedoms.

51. The right of a citizen to be informed and to have free access to public information is a right indispensable to the democratic ideals. Citizens of the Republic of Moldova today do not feel as isolated and manipulated as they were during the Soviet regime.

52. The right of a person to information is a fundamental human right, which determines his social, economic and political action and the exercise of his freedoms provided by the Constitution, including the freedom of thought, opinion, creation, public expression, speech, image, or any other expression. This also assumes the possibility of receiving information on social, political, economic, scientific and cultural life, etc. There is no doubt that one cannot speak separately of the mass media and access to information only by incorporating this debate into the general background related to the citizen's access to information of public interest. Formulas such as free access to information or right to information penetrate more and more clearly into the citizen's conscience.

53. We also need to admit that, in the Republic of Moldova, the mentality of certain social segments is not emancipated enough to stimulate courage and insistence in getting public information or to encourage them to use this information with the purpose of participating in public activities, on which their existence depends. This is a process of permanent change. In this context, we can certainly state that the capacity of the society to control the State institutions, depending on the extent to which public opinion is aware of the substance of their activities and of their decisions, has been continuously increasing since the Declaration of Independence was passed.

54. In the period after the ratification of the International Covenant on Civil and Political Rights, the texts of international conventions and treaties regarding human rights signed by Moldova, including the International Covenant on Civil and Political Rights, were published. Their full publication in 26 volumes coordinated by experts from the Law Center, was made official by the Ministry of Justice and the Ministry of External Affairs.

55. Abolition of the distorted doctrine that dominated the masses' conscience all during the period of communist dictatorship, according to which the State was regarded as a "donor" and not as a "protector" of human rights, is of great significance. Accurate, detailed and accessible information on the tendencies and realities of the modern information society, characteristic of all consolidated democracies, cannot but be welcomed by the whole society. Currently, one can certainly state that the Republic of Moldova includes itself, with more confidence, in a space focused on the principles of free provision, circulation, receipt of and access to information, in conditions of respect of other fundamental values.

56. Unfortunately, in the eastern region of the Republic of Moldova, controlled by the Tiraspol separatist regime, the functioning of mass media differs from the rest of the territory. The right of expression and access to information are in a more precarious situation there. The unconstitutional authorities of this region largely suppress the mass media that are inconvenient for the policies of the separatist regime. There is no political party or newspaper in open opposition to the regime from the region. The circulation of national publications is very low. Free circulation of information will be possible in this region only when the Transnistrian conflict is definitively solved, the Russian Federation withdraws its troops and weapons, and when the independence and sovereignty of our State is consolidated.

57. On 11 February 1999, the parliament of the Republic of Moldova adopted Decision No. 277-XIV, "On the concept of support and promotion of mass media by the State, 1999-2003", submitted as a draft by the Union of Journalists of the Republic of Moldova and considered as a step forward in the consolidation by the State of the freedom and independence of the mass press in the country.

58. Parliament, by mutual agreement with the Government and civil society, among which may be mentioned the Union of Journalists, is called upon to draft and adopt a set of normative rulings aimed at promoting a national fundamental policy in tl.· field. Currently, the Law on the press, in force since 1995, is being re-examined in parliament. In addition, the Law on Access to Information No. 982-XIV of 15 May 2000 (Monitorul Oficial of the Republic of Moldova, 2000, No. 88-90, art. 664), has been passed.

59. As for the Law on the Organization and Functioning of Broadcasting in the Republic of Moldova, a draft is being discussed in parliament. A law on a public audio-visual institution will be included as a separate section of this mentioned law.

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Republic of Yemen

[5 July 2001]

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I. LAND AND PEOPLE

A. Location and area

1. The Republic of Yemen is situated in the southern part of the Arabian Peninsula between latitudes 12° and 19° N and longitudes 43° and 52° E and covers an area of 555,000 km^2 (not including the Empty Quarter desert). It is bordered by the Kingdom of Saudi Arabia to the north, the Arabian Sea and the Gulf of Aden to the south, the Sultanate of Oman to the east and the Red Sea to the west. The Bab al-Mandab straits, in the south-western part of Yemen, are divided into two by the Yemeni island of Miyun (Perim), which controls the approaches thereto.

2. The island of Suqutra in the Arabian Sea, which is the largest of the Yemeni islands, is situated at a distance of 510 km from the southern coast of Yemen and covers an area of 3,650 km^2. There are also a number of small islands, such as Abd al-Kuri, in the Arabian Sea and more than 112 Yemeni islands in the Red Sea, the largest of which are the islands of Kamaran, Hanish al-Kubra, Hanish al-Sughra, Zuqur, al-Zubair, Farasan and al-Tair. The Yemeni coastline extends for more than 2,200 km from the Red Sea in the west to the Arabian Sea and the Indian Ocean in the south.

3. Although the vast majority of Yemenis are Arabs, a few of them are of African or Indian ethnic origin. Trade contributed to this extremely slight ethnic diversity.

B. Religion

4. Islam is the religion of the State (article 2 of the Constitution). More than 99.7 per cent of Yemenis are Muslims, divided into two main confessional groups, the larger of which adheres to the Shafi'i school of law (one of the four Sunnite schools) while the smaller group, living in some of the northern areas, adheres to the Zeidi school of law (one of the Shi'ite schools). There is also a population group adhering to the Isma'ili school of law (a school with historical roots in Yemen which has many followers among the Muslims of India where they are known as the Bohra community).

5. Yemen also has a Jewish minority, totalling not more than 5,000 persons, who live in towns and villages in the governorates of Amran and Sa'dah. This minority, which is of Yemeni origin, was more numerous before a large number of its members emigrated to Palestine.

6. All of the Christians in Yemen are foreigners residing there for reasons attributable to their professional activity. They enjoy freedom to engage in their religious observances either at their places of work or at locations designated for that purpose.

C. Language

7. Arabic is the official language of the Republic of Yemen (article 2 of the Constitution). It is also the language of communication, education and information. The Mahra and Suqutri languages are spoken by minorities living in the governorate of Mahra in the easternmost part of

Yemen and on the island of Suqutra in the Indian Ocean. The Government is making a considerable endeavour to study these languages, identify their characteristics and preserve them. In recent years, English has been taught more widely, particularly in private education.

D. Population

8. Yemen is the most densely populated country in the Arabian Peninsula. This is largely due to natural circumstances such as its fertile soil, its rainfall and Yemeni ingenuity in building dams and dykes, as well as terraces on the mountain slopes, which led to an expansion of the area of arable land. Over the centuries, Yemen has constituted a human reservoir for most of the peoples historically known as Arabs. Whenever environmental, political or economic circumstances changed, there were migratory flows from Yemen in various directions, particularly northwards.

9. Population censuses in the former Yemen Arab Republic (northern Yemen) show that the total population increased from 6.5 million persons in 1975 to 9.3 million in 1986 and about 10.6 million in 1998, i.e. a total increase of 3.7 million persons. In the former People's Democratic Republic of Yemen (southern Yemen), the population increased from 1.6 million persons in 1973 to 2.34 million in 1988.

10. According to the population projections for 1998, the resident population of the Republic of Yemen amounted to about 17,071,000 persons distributed among the 19 governorates, in addition to the capital, and comprising 8,527,000 males (about 49.95 per cent) and 8,545,000 females (about 50.05 per cent). These projections were based on the 1994 census.

11. The overall population density in the Republic amounts to about 31 persons per km^2 but varies from one governorate to another depending on the topography.

12. The annual rate of natural population growth, amounting to 3.7 per cent, is a high rate by international standards.

E. Fertility

13. In 1997, the overall fertility rate amounted to 7.0 per cent in rural areas and 5.0 per cent in urban areas (i.e. a mean average of 6.5 per cent).

14. Total fertility per thousand amounted to 221.0 in rural areas and 167.0 in urban areas (a mean average of 206.0).

Rates for 1997	Rural	Urban	Mean
Overall fertility rate	7.0	5.0	6.5
Total fertility (per thousand)	221.0	167.0	206.0
Crude birth rate (per thousand)	40.6	35.2	39.2

15. Life expectancy at birth in 1998

Gender	Rural	Urban	Mean
Males	56.6	58.5	57.5
Females	59.6	62.6	61.0
Overall	58.1	60.5	59.2

16. Proportion of the population under 15 years of age in 1998

Gender	Rural	Urban	Mean
Males	50.7	39.2	47.9
Females	46.7	42.8	45.9
Overall	48.7	40.8	46.9
Urban/rural distribution of the population (%)	74.44	25.56	100

17. Average age of the population in 1997

Gender	Rural	Urban	Mean
Males	14.4	16.7	15.0
Females	15.3	17.0	15.7
Overall	14.9	16.8	15.4

18. Infant mortality rate (per thousand)

Gender	Rural	Urban	Mean
Males	90.4	67.0	85.2
Females	66.1	59.4	64.4
Overall	78.8	63.4	75.3

19. Mortality rate (per thousand) among children under five years of age in 1997

Gender	Rural	Urban	Mean
Males	120.3	82.8	112.0
Females	102.9	77.0	97.1
Overall	112.0	80.0	104.8

20. Overall mortality rate (per thousand) in 1997

Gender	Rural	Urban	Mean
Males	12.9	10.3	12.2
Females	11.0	8.9	10.9
Overall	11.9	9.7	11.3

21. Proportion of households headed by women

	Rural	Urban	Mean
Proportion of households headed by women	10.0	9.0	10.0

22. Illiteracy rate (percentage) in 1998

Gender	Rural	Urban	Mean
Males	34.99	20.55	31.25
Females	73.29	38.77	64.15
Overall	53.52	29.80	47.31

F. Education

23. The Yemenis suffered from ignorance, intellectual stultification and isolation for many centuries until the outbreak of the revolution in the former Yemen Arab Republic (northern Yemen) on 26 September 1962 and in the former People's Democratic Republic of Yemen (southern Yemen) on 14 October 1963 when endeavours were made to combat ignorance and illiteracy. The aim of education is to train upright citizens eager to assert their rights of citizenship and capable of assuming the responsibilities resulting therefrom; to enable individuals to understand the natural, social and cultural environment of their society in particular and of Arab and human society in general; to develop their basic skills so that they can transmit ideas and pursue scientific modes of thought and research; to promote their sound development; and to improve their health and their social and economic standards. The philosophy of education focuses on achievement of the following objectives:

(a) Promotion of universal basic education, according priority to deprived areas and categories;

(b) Development of general education in such a way as to meet the needs of individuals and society in all fields;

(c) Expansion of the scope of basic education services to include the provision of health services and academic requisites;

(d) Development of scientific tendencies, originality, objectivity and a critical spirit among children in order to endow them with skills and abilities consistent with the level of their intellectual and physical development and linked to their immediate environment.

24. In view of the importance of education in everyday life and for the country's future, article 54 of the Constitution stipulates that: "All citizens have a right to education which the State shall safeguard, in accordance with the law, by establishing various schools and cultural and educational institutions. Primary education shall be compulsory and the State shall endeavour to eradicate illiteracy and e. nand technical and vocational education. The State shall also cater, in particular, for the welfare of the younger generation by protecting it from delinquency, providing it with a sound religious, intellectual and physical upbringing and creating appropriate conditions for the development of its aptitudes in all fields".

25. The State is endeavouring to provide everyone with equal educational opportunities, consistent with the wishes of individuals and the needs of society, in accordance with comprehensive socio-economic plans. By law, primary education is free and compulsory. More schools are being constructed for primary education and students are permitted to enrol at public schools from the ages of 5 to 10 so that a larger number of them can receive an education, particularly in remote areas.

26. Following Yemen's reunification, the duration of compulsory primary education was increased from 6 to 9 years and the kindergarten stage has been included in the education system in order to teach children in the early years of their lives. The Government has also encouraged the private sector to invest in pre-school, primary, secondary and university education.

27. The educational statistics show that, during the 1990s, the number of students enrolled for primary education increased notably from about 2 million to 2.9 million, i.e. an increase of 45 per cent. The enrolment rate in the first primary grade rose to 100 per cent and the drop-out rate decreased to 1.2 per cent. This was also the case at the secondary level, in which the number of students rose from 134,000 in the academic year 1990/91 to 376,000 in the year 1999/2000, i.e. an increase of about 180 per cent.

28. The educational statistics also show notable growth in the number of females enrolled for primary education, which increased from 516,000 in the academic year 1990/91 to about 980,000 in the year 1999/2000, i.e. an annual growth of about 19 per cent. Large increases were also noted in the number of female students enrolled at the secondary level, which increased from just over 20,000 in the year 1990/91 to more than 94,000 in the year 1999/2000. The achievements made in the field of female education are illustrated by the fact that the number of females working in the teaching profession increased from about 9,869 to 29,610 during the same period, although this figure represented only 20 per cent of the total number of teachers in the academic year 1999/2000.

29. Informal education programmes, covering the first primary grade to the general secondary (pre-university) level, have been organized for persons whose circumstances prevented them from enrolling for formal education.

30. The aim of the technical education and vocational training policies and programmes is to increase the number of persons enrolled at technical and vocational colleges to more than 12 per cent of the number of students enrolled for secondary education (trainees are permitted to enrol at these colleges after completing their 9-year primary education). There are currently 26 such colleges and training institutions, distributed among the various governorates of the Republic, which employ 960 teachers who provide instruction and training in specialized fields such as electrical engineering, electronics, mechanical engineering (vehicles and agricultural equipment), production mechanics, structural engineering, finishing, carpentry, the hotel and tourist trades, agriculture and veterinary medicine.

Development of education during the period 1990-1999

Academic year	Number of schools	Number of students	Number of teachers
1990/91	10 746	2 041 074	54 864
1999/2000	14 661	3 335 214	150 290

G. Economic indicators

31. In 1998, the gross national product amounted to 638.145 billion rials.

32. The Yemeni economy depends primarily on agricultural and fishing activities, followed by government services, the extraction industries, transport, storage and communications. All of these sectors were developed considerably during the period 1990-1999.

33. This period can be divided into two parts:

(a) The period 1991-1994, which was characterized by evident economic difficulties insofar as the gross domestic product declined, the average rate of growth amounted to 1 per cent, the public budget recorded a large deficit equivalent to 16.7 per cent of GDP in 1994 and the balance-of-payments deficit amounted to 13 per cent of GNP;

(b) The period 1995-1999, which began with a series of remedial economic measures consisting in economic, financial and administrative reform programmes designed to achieve, inter alia:

(i) Positive growth rates;

(ii) A reduction in the rate of inflation;

(iii) Equilibrium in the balance of payments.

34. These programmes had clearly beneficial effects for the national economy insofar as the average growth rate of GNP increased to 6.5 per cent and the deficit in the balance of payments declined from 13 per cent to 2 per cent of GNP.

II. STRUCTURE OF THE SYSTEM OF GOVERNMENT IN THE REPUBLIC OF YEMEN

A. The political system

35. The Republic of Yemen is an Arab Islamic State with a republican system of government. Article 1 of its Constitution stipulates that: "The Republic of Yemen is an independent and sovereign Arab Islamic State".

36. Yemen has a democratic parliamentary political system, comprising features of the presidential and parliamentary systems, the principal characteristics of which are as follows:

(a) Yemen is a constitutional, republican, united (single as opposed to federal or confederated) Arab Islamic State;

(b) Yemen is a democracy which practises multiparty political pluralism as the basis for peaceful sharing and transfer of authority;

(c) Authority is based on the concept of sovereignty of the people, who are the holders and the source of authority, which they exercise directly through referendums and public elections, and indirectly through legislative and executive bodies and elected local councils;

(d) The State's international relations are based on recognition of, and compliance with, the Charter of the United Nations, the Universal Declaration of Human Rights, the Pact of the League of Arab States and all the generally recognized rules of international law (article 6 of the Constitution);

(e) The economic system is based on freedom of economic activity and operates in accordance with objective legal, administrative and procedural principles which ensure social justice, the development of production, social equilibrium, equality of opportunity, fair competition between the various economic sectors, and respect for private property;

(f) The State's social system is based on the family, which is sustained by religion, morality and patriotism, and on society, which is sustained by mutual support and solidarity which, in turn, are based on justice, freedom and equality;

(g) All citizens are equal before the law, without any discrimination among them in regard to their rights and obligations;

(h) The system of government is based on the principle of the separation of powers and cooperation between them;

(i) Yemen recognizes the principle of judicial review and amendment of the Constitution in accordance with specific conditions and procedures.

37. Since the reunification of Yemen in 1990, the Yemeni people have enjoyed legislative and legal safeguards following the abolition of the laws that were in force during the period when the country was split into two halves. The system of government in the Republic of Yemen is based on the principle of separation of legislative, executive and judicial powers, each of which protects human rights by complying strictly with the laws regulating such protection. In addition to the fact that government is based on sovereignty of the people and separation of powers, the principal internal safeguards of human rights in the Republic of Yemen also include the establishment of a Supreme Court which monitors the constitutionality of legislation, recognition of the right to form political parties and trade unions, freedom of the press, and the fact that laws are formulated in a manner that does not derogate from human rights.

B. The legislative authority

38. The legislative authority is the body entitled to promulgate the binding rules which govern the behaviour of persons within the territory of the State. Under the Yemeni Constitution, the right to promulgate legislation is vested in the House of Representatives, which constitutes the legislative authority, although recognition is also given to the system of referendums among the electorate, in its capacity as the body in which sovereignty is inherently vested, on important issues as happened in the case of the referendum on the Constitution of the Republic of Yemen, which was held on 15 and 16 May 1991, and the referendum on the latest constitutional amendments, which was held on 20 February 2001.

C. The House of Representatives

39. The enactment of legislation and approval of the general policy and plans of the State, including its socio-economic development plan and its budget and final accounts, are among the functions of the House of Representatives, which also monitors the acts of the executive authority in the manner specified in the Constitution (art. 62).

1. Composition of the House of Representatives

40. The Constitution adopts the system of a unicameral House, all the members of which are elected by the people. Article 63 of the Constitution stipulates that: "The House of Representatives shall consist of 301 members freely elected on the basis of universal, equal and direct suffrage by secret ballot. The Republic shall be divided into electoral constituencies the population of which shall be equal in number within a range of plus or minus 5 per cent. One member shall be elected from each constituency".

2. Eligibility for membership of the House of Representatives

41. Article 64 (a) of the Constitution of the Republic of Yemen stipulates that the members of the House of Representatives must meet the following conditions:

(a) They must be Yemenis;

(b) They must be over 25 years of age;

(c) They must be literate;

(d) They must be of commendable character and conduct, must fulfil their religious obligations and must not have been convicted of an offence prejudicial to honour or integrity under the terms of a final court judgement unless they have subsequently been restored to good standing.

3. Term of the House of Representatives

42. Article 65 of the Constitution stipulates that: "The House of Representatives shall be elected for a term of six Gregorian calendar years beginning on the date of its first meeting. The President of the Republic shall call upon the electorate to elect a new House at least 60 days before the expiration of its term. If this is precluded by circumstances of force majeure, the existing House shall continue to exercise its constitutional authority until the said circumstances no longer apply and a new House has been elected."

4. Principal organs of the House of Representatives

43. (a) The Speaker of the House: At its first meeting, the House elects, by an absolute majority vote among its members, a Speaker and the members of the Presidium. The voting, by secret ballot, takes place at a public meeting and, in the case of the Speaker, is for a single candidate. The Speaker of the House presides over its meetings, represents the House in its contacts with other bodies, speaks on its behalf in accordance with its wishes and supervises all its work, as well as the work of all its organs; (b) The Presidium: The Presidium, consisting of the Speaker of the House and his three deputies, constitutes the House's standing body. It is answerable to the House for all its activities and exercises the powers assigned to it under the terms of the Constitution and the Bylaws of the House, particularly in regard to supervision of the activities of the House and its committees and assisting those committees in the performance of their tasks; (c) The Committees: The House establishes standing committees to assist it in the discharge of its legislative, monitoring and steering functions. The work is divided among them in accordance with their fields of specialization. The great importance that is attached to these committees stems from the fact that they focus on specific fields and, therefore, can undertake a thorough and meticulous study of matters falling within the scope of their field of activity. By virtue of the freedom granted to the members of the House to join one or more committees to the activities of which they can contribute, the work of these committees is characterized by a certain degree of flexibility and vitality. The committees constitute the core of the House, since their task is to study the matters or bills of law referred to them and to submit appropriate recommendations, which have a fundamental influence on the House's decision-making. Each committee consists of 10 to 15 members. The present House of Representatives has 19 such standing committees, which are listed below:

(i) The Constitutional and Legal Affairs Committee;

(ii) The Development, Petroleum and Mineral Resources Committee;

(iii) The Trade and Industry Committee;

(iv) The Financial Affairs Committee;

(v) The Education Committee;

(vi) The Higher Education, Youth and Sports Committee;

(vii) The Electricity, Water, Construction and Urban Planning Committee;

(viii) The Environment and Public Health Committee;

(ix) The Communications and Transport Committee;

(x) The Agriculture, Fisheries and Water Resources Committee;

(xi) The Manpower and Social Affairs Committee;

(xii) The Foreign Affairs and Expatriates Committee;

(xiii) The Justice and Awqaf (Religious Endowments) Committee;

(xiv) The Committee on the Codification of the Principles of the Islamic Shari'a;

(xv) The Defence and Security Committee;

(xvi) The Local Administration Committee;

(xvii) The Information, Culture and Tourism Committee;

(xviii) The Petitions and Complaints Committee;

(xix) The Public Freedoms and Human Rights Committee;

(d) The Secretariat: This is the executive organ of the House which conducts its technical, administrative and financial affairs and implements the directives of the Presidium. It consists of a Secretary-General and an Assistant-Secretary-General, who are appointed by the President of the Republic on the basis of a recommendation by the Presidium of the House.

5. Functions of the House of Representatives

44. The House of Representatives discharges the following three functions:

(a) A political function: This consists in monitoring the acts of the executive authority and directing the policy of the Government through its expression or withdrawal of confidence therein. This political function also includes the right to call to account, investigate, interpellate and move for a withdrawal of confidence, if necessary;

(b) A legislative function: This intrinsic function of the House of Representatives includes approval of the bills of law referred to it by the Government or proposed by members of the House. The legislative process passes through three stages: (i) proposal; (ii) deliberation and voting; (iii) approval and promulgation;

(c) A financial function: This is one of the most important functions assigned to the House of Representatives under the terms of the Constitution. It includes:

(i) Approval of the State's public budget (art. 88 (a));

(ii) Approval of the final accounts (art. 91);

(iii) Approval of treaties, taxes and loans (art. 92).

45. Two parliamentary elections have been held. The first, held on 27 April 1993, was fought by 22 of the 40 licensed political parties and the number of candidates amounted to 1,226 from political parties and organizations and 1,940 independents from all parts of the Republic. The proportion of registered voters who actually voted amounted to 90.83 per cent. The fact that only two women were elected, which is a very small proportion in comparison with the number of male members of the House of Representatives, is attributable to the inherited social traditions in which the Yemeni people have been brought up. The second parliamentary election, held on 27 April 1997, were fought by 12 political parties and organizations. A large number of international and local observers helped to monitor both elections, which were conducted in a democratic manner as attested by all.

46. During the first decade of its existence, the Republic of Yemen had three Houses of Representatives:

(a) The Transitional House of Representatives for the period from 22 May 1990 to 27 April 1993, which consisted of members of the Consultative Council of the Former Yemen Arab Republic (159 members) and members of the Supreme People's Council of the former People's Democratic Republic of Yemen (111 members), together with 31 other members consisting of eminent political and social personalities appointed by the Presidium;

(b) The House of Representatives for the period from 27 April 1993 to 27 April 1997, all the members of which were elected directly by the people (301 members);

(c) The House of Representatives for the period from 27 April 1997 to 27 April 2001, all the members of which were elected directly by the people (301 members).

D. The executive authority

47. In the Yemeni political system, the executive authority is composed of two separate organs: the Presidency and the Government, consisting of the Council of Ministers. The executive authority is exercised on behalf of the people by the President of the Republic and the Council of Ministers within the limits laid down in the Constitution (art. 105).

1. The Presidency of the Republic

48. Prior to its amendment in 1994, the Constitution of the Republic of Yemen had adopted the principle of a collective Presidency, consisting in a Presidential Council composed of five members, which continued until 1994 when the Constitution was amended by the House of Representatives after the collective Presidency was found to be ineffective. Following that constitutional amendment on 28 September 1994, the Presidency of the Republic has consisted of a President and a Vice-President appointed by the President.

49. The conditions to be met by candidates for the post of President of the Republic, as stipulated in article 107 of the Constitution, are as follows: he must be Yemeni, born of Yemeni parents, and must not be under 40 years of age; he must enjoy his political and civil rights; he must be of commendable character and conduct and must practise Islamic observances; he must not have been convicted of an offence prejudicial to honour or integrity under the terms of a final court judgement unless he has subsequently been restored to good standing; he must not be married to a foreign woman, nor may he marry a foreign woman during his term of office.

2. Manner of assumption of, and functions assigned to, the Presidency of the Republic

50. Article 108 of the Constitution stipulates that the nomination and election of the President of the Republic shall be as follows:

(a) Candidatures shall be submitted to the Speaker of the House of Representatives;

(b) The candidatures shall be examined, in order to ensure that the nominees meet the constitutionally stipulated conditions, at a joint meeting of the presidiums of the House of Representatives and the Consultative Council;

(c) The names of the candidates who meet the conditions shall be presented at a joint meeting of the House of Representatives and the Consultative Counsel for nomination. Each candidate for the post of President of the Republic must be nominated by at least 5 per cent of the total number of members attending the meeting. Nomination shall be by direct secret ballot;

(d) The joint meeting shall be required to nominate at least three persons for the post of President of the Republic so that their names can be submitted to the people in competitive elections, in which the number of nominees must not be less than two;

(e) The President of the Republic shall be chosen by the people in competitive elections;

(f) The person who obtains an absolute majority of the votes cast in the election shall become the President of the Republic. If none of the nominees obtains such a majority, a second electoral round shall be held, in accordance with the same above-mentioned procedures, between the two nominees who obtained the largest number of votes cast.

3. Term of the presidential mandate

51. Article 112 of the Constitution stipulates that: "The term of office of the President of the Republic shall be seven Gregorian calendar years beginning on the date on which he takes the constitutional oath. No one may assume the office of President for more than two seven-year terms."

52. It is not permissible to combine the office of President of the Republic with other occupations, since direction of the helm of government is a full-time task. Accordingly, article 118 of the Constitution stipulates that, during his term of office, the President of the Republic shall not engage, even indirectly, in a liberal profession or a commercial, financial or industrial activity, nor shall he purchase or lease any property of the State, even through a public auction, or rent, sell or barter to the State any of his own property. Article 117 of the Constitution further stipulates that the salary and allowances of the President of the Republic shall be determined by law and he shall not receive any other emolument or remuneration.

53. This bipolarity of executive authority in the parliamentary or mixed system means that political responsibility is borne by the Government and not by the President of the Republic who, in his capacity as head of State, symbolizes the country's sovereignty and independence and, therefore, his personal immunity can be lifted only if so requested by half of the members of the House of Representatives and he can be impeached, by a majority decision of two thirds of the members of the House, only if he commits high treason, violates the Constitution or acts in a manner detrimental to the country's sovereignty and independence. There are legally prescribed procedures for impeachment of the President. If both the President and his Vice-President were impeached, the Presidium of the House of Representatives would temporarily assume the functions of the Presidency of the Republic until the court handed down its judgement. If either of them were convicted, he would be removed from office in accordance with the Constitution without prejudice to any other penalties. None of the offences referred to in article 128 of the Constitution are subject to any statute of limitations.

4. Functions and powers of the President of the Republic

54. Article 119 of the Constitution specifies the tasks and functions assumed by the President of the Republic, which can be classified as follows:

(a) In the political and administrative field:

(i) Formulation of the general policy of the State in collaboration with the Government and supervision of its implementation;

(ii) Instructing the person concerned to form a Government and issuing a presidential decree naming its members;

(iii) Inviting the Council of Ministers to attend a joint meeting with the President of the Republic whenever necessary;

(iv) Appointment and dismissal of senior civilian and military officials of the State, in accordance with the law;

(v) Calling a public referendum;

(b) In the legislative field:

(i) Calling upon the electorate, at the scheduled time, to elect the House of Representatives;

(ii) Calling upon the elected House of Representatives to hold its first meeting (article 70 of the Constitution);

(iii) The right to ratify bills of law approved by the House of Representatives and to promulgate decrees and implementing regulations pertaining thereto;

(iv) The right to promulgate laws, in the sense that the promulgation of laws by the President of the Republic is equivalent to the issue of a "birth certificate" for such laws;

(v) The right to object to bills of law, in the sense that the President of the Republic is entitled to request reconsideration of a bill of law that has been approved by the House of Representatives, in which case he must refer it back to the House of Representatives, stating the reasons for his decision, within 30 days from the date on which it was submitted to him. If he fails to refer it back to the House within that time limit or if, having been referred back to the House, it is once again approved by a majority of the members of the House, it is deemed to be enactable and must be promulgated by the President of the Republic within two weeks. If he fails to do so, it is deemed to have been constitutionally enacted without the need for promulgation;

(vi) The right to dissolve the House of Representatives. This right is vested in the President of the Republic in his capacity as such. However, the Constitution makes the exercise of this right conditional on the holding of a popular referendum on the justification for such dissolution. The Constitution further stipulates that the electorate must be called upon to elect a new House of Representatives within 60 days from the date of promulgation of the decision to dissolve the House. Moreover, a House may under no circumstances be dissolved during its first session (article 101 of the Constitution);

(c) At the international level:

The President of the Republic enjoys extensive powers at the international level. Since he represents the State at home and abroad, he is always kept informed of international events through the regular reports submitted to him by Yemeni diplomatic missions abroad and through his direct relations with the leaders of various States (article 119 (a) of the Constitution). The President of the Republic is also empowered to establish diplomatic missions and appoint ambassadors to other States and to welcome, and receive the credentials of, ambassadors appointed in Yemen (article 119, paragraphs 14 and 15, of the Constitution). In addition, the President of the Republic ratifies agreements which have been approved by the Council of Ministers and which do not need to be approved by the House of Representatives and he issues decrees ratifying agreements and treaties that have been approved by the House of Representatives (article 119, paragraphs 12 and 13, of the Constitution);

(d) With regard to the armed forces:

Being responsible for protecting the country's safety, independence and territorial integrity, the President of the Republic is the Commander-in-Chief of the Armed Forces. The Constitution specifies some of his functions in this field as follows:

(i) The President of the Republic is the Commander-in-Chief of the Armed Forces (article 111 of the Constitution);

(ii) The President of the Republic appoints the members of the National Defence Council (article 119, paragraph 7, of the Constitution);

(iii) He establishes military ranks in accordance with the law (article 119, paragraph 10, of the Constitution);

(iv) He awards the medals and decorations provided for by law and authorizes the wearing of decorations awarded by other States (article 119, paragraph 11, of the Constitution);

(e) Exceptional powers:

In the event of the country being exposed to dangers that might threaten its security and territorial integrity, the President of the Republic has an obligation to take appropriate measures to counter them by, inter alia, proclaiming a state of emergency by presidential decree. The House of Representatives must be convened in order to consider the said proclamation within seven days from the date on which it is issued. If the House had been dissolved, the former House would be reconvened in accordance with the Constitution. If the House were not convened, or if the proclamation were not submitted to it for consideration, the state of emergency, which would be of limited duration, would be terminated and could be extended only with the approval of the House of Representatives. At all events, a state of emergency can be proclaimed only for important reasons such as the outbreak of war, internal civil strife or natural disasters (article 121 of the Constitution);

(f) In the judicial field: The President of the Republic exercises functions of a judicial nature, including:

(i) Promulgation of a presidential decree appointing the president, vice-president and members of the Supreme Court of the Republic on the basis of a recommendation by the Supreme Council of the Judiciary;

(ii) Ratification of death sentences, which can be carried out only after their ratification by the President of the Republic, who has the right to grant a pardon if he believes that the interests, security and stability of the country so require.

E. The Consultative Council

55. In the former Yemen Arab Republic, a 15-member Consultative Council was formed, under the terms of a presidential decree promulgated in 1989, to study internal and external issues affecting the country's higher national interests. The agreement proclaiming the Republic of Yemen and regulating the transitional period stipulated that the Presidential Council would issue, at its first meeting, a decree forming a 45-member Consultative Council. After the reunification in 1990, the Consultative Council was formed in accordance with a decree promulgated by the Presidential Council. In its present form, the Consultative Council is one of the constitutional institutions the structures and functions of which have been developed, in accordance with the constitutional amendment on which the referendum was held on 20 February 2001, with a view to expanding the scope of advisory participation and benefiting from the specialized technical expertise available in the various parts of Yemen. The functions of the Consultative Council, which comprises 111 members, are specified in articles 125-127 of the Constitution and a number of committees, including the Human Rights and Public Freedoms Committee, are formed within its framework.

F. The constitutional provisions regulating the composition of the Government and specifying its tasks and functions

56. Article 129 of the Constitution stipulates that: "The Council of Ministers shall constitute the Government of the Republic of Yemen. It shall be the highest executive and administrative authority in the State to which all the State's executive departments, agencies and institutions, without exception, shall be subordinate."

57. The Government consists of the Prime Minister, the Deputy Prime Ministers and the Ministers who together constitute the Council of Ministers which discharges its functions collectively. In this way, the Government plays an important political role in the study and formulation of policy. The Ministers are the heads of the ministerial departments, for which they are responsible, and, consequently, exercise considerable administrative authority. Before the Prime Minister and the Ministers assume their functions, they must take the constitutional oath before the President of the Republic. The number of Ministers may vary from one Government to another depending on the requirements of the situation, as well as technical needs and political considerations. Article 137 of the Constitution summarizes the functions of the Government as follows: "The Council of Ministers shall be responsible for the implementation of the general

policy of the State in the political, economic, social, cultural and defence fields in accordance with the laws and decrees." The Council of Ministers (Government) endeavours to protect rights and freedoms, through the faithful implementation of the laws promulgated by the House of Representatives, in collaboration with some governmental and non-governmental institutions which are directly engaged in activities to protect human rights. This clearly shows that the executive authority is responsible for protecting human rights as part of its task of ensuring the implementation of the laws and regulations.

1. Appointment of the Government

58. The Yemeni Constitution adopts the method followed in the parliamentary system by empowering the President of the Republic to select the Prime Minister, as can be seen from article 119 of the Constitution. The Prime Minister, in turn, is empowered to select his Ministers in consultation with the President of the Republic and to seek a vote of confidence in the Government in the light of a manifesto which he submits to the House of Representatives (article 132 of the Constitution).

59. Article 131 of the Constitution stipulates that: "The Prime Minister, his Deputies and the Ministers must meet the conditions of eligibility for membership of the House of Representatives, with the further proviso that none of them shall be under 30 years of age, with the exception of the Prime Minister who shall not be under 40 years of age".

2. Inadmissibility of combining a ministerial function with other work

60. Article 136 of the Constitution stipulates that: "During the discharge of their ministerial functions, the Prime Minister and the Ministers shall not assume any other public office nor shall they engage, even indirectly, in a liberal profession or a commercial, financial or industrial activity. They shall not participate in contracts awarded by the Government or public institutions and shall not combine their ministerial function with membership of the board of directors of any company and, during their term of office, shall not purchase, sell, lease or barter, even through a public auction, any property of the State or rent, sell or barter to the State any of their own property."

3. Functions of the Government

61. Article 137 of the Constitution defines the functions of the Government as follows: "The Council of Ministers shall be responsible for the implementation of the general policy of the State in the political, economic, social, cultural and defence fields in accordance with the laws and decrees and, in particular, shall exercise the following functions:

(a) Participation, together with the President of the Republic, in the formulation of the broad outlines of internal and foreign policy;

(b) Preparation of the State's draft economic plan and annual budget, control of the implementation thereof, and preparation of the State's final accounts;

(c) Preparation of draft legislation and decisions for submission to the House of Representatives or the President of the Republic, as appropriate;

(d) Approval of treaties and agreements prior to their submission to the House of Representatives or the President of the Republic, as appropriate;

(e) Adoption of the measures needed to preserve the internal and external security of the State and to protect the rights of its citizens;

(f) Direction, coordination and monitoring of the activities of Ministries, administrative agencies, public institutions and bodies and the public and mixed sectors, in accordance with the law;

(g) Appointment and dismissal of senior officials, in accordance with the law, and formulation and implementation of policies to develop the technical human resources of government agencies and train manpower, in accordance with the country's needs, within the framework of the economic plan;

(h) Monitoring the implementation of laws and protecting State property;

(i) Supervision of the organization and administration of the monetary, credit and insurance systems;

(j) The contracting and granting of loans within the limits of the State's general policy and the provisions of the Constitution."

The Council of Ministers Act No. 20 of 1991 adds the following functions:

(a) The Council of Ministers shall be responsible for the implementation of the general policy of the State in all fields in a manner consistent with the Constitution, the laws and the decrees of the President of the Republic and shall have the final word in all matters relating to the implementation of general policy;

(b) Without prejudice to the prerogatives of the President of the Republic, the Council of Ministers shall implement the State's foreign policy and undertake the overall supervision of its relations with other States, taking care to maintain mutual respect and common interests. It shall endeavour to develop these relations in a manner conducive to the interests of the Republic of Yemen and shall formulate the rules and principles that govern and regulate the activities of diplomatic, economic, social and cultural bodies in relation to other States and international organizations so that they can be submitted to the President of the Republic for approval and monitoring of compliance therewith;

(c) The Council of Ministers shall take the measures needed to guarantee strict application of the provisions of the Constitution and the law and to ensure that its subordinate central and local government agencies, as well as all public institutions and other facilities, conduct their activities in accordance with the Constitution and the law;

(d) The Council of Ministers shall approve the draft decrees and regulations needed to implement legislation and regulate public agencies and departments prior to their submission to the President of the Republic for promulgation. The Council of Ministers shall also issue, and ensure the implementation of, decrees and orders which it is empowered to issue or which are in accordance with the legislation, its implementing regulations and the decrees of the President of the Republic. Such decrees, orders and regulations shall be enforceable in all parts of the Republic;

(e) The Council of Ministers shall have the right to annul, modify or suspend the implementation of decisions taken by Ministers or the executive organs of local councils if they are contrary to the law or inconsistent with the policy of the State with a view to ensuring that they are implemented in a more appropriate manner;

(f) With regard to the exercise of control functions, all the Ministries and agencies, including public organizations and institutions and local authorities which are subordinate to the Council of Ministers shall provide the Prime Minister with periodic reports on their activities in financial, economic, administrative, developmental, commercial, security, military and other fields, on the progress made in the implementation of the general plan, on the extent to which the legislation, decrees and regulations in force are being applied and on the activities of political parties, organizations, trade unions and professional associations in order to ensure that the requisite information on the implementation of the State's general policy and on the tasks and plans of the Government are made available in good time so that they can be submitted to the Council of Ministers.

4. Functions and powers of the Prime Minister

62 The Council of Ministers Act No. 20 of 1991 defines the functions and powers of the Prime Minister as follows:

(a) The Prime Minister shall direct the work and chair the meetings of the Council of Ministers;

(b) The Prime Minister shall schedule, and draw up the agenda of, the meetings of the Council of Ministers, sign the decrees and orders that it issues and represent it in all internal and external matters relating to the implementation of the State's policy and falling within the constitutional and legal jurisdiction of the Council of Ministers;

(c) The Prime Minister shall represent the Council in all internal and external matters relating to the implementation of the State's policy and shall sign the decrees and orders issued by the Council and falling within its constitutional and legal jurisdiction;

(d) The Prime Minister shall supervise the implementation of the regulations, decrees and orders issued by the President of the Republic, as well as the decrees and orders issued by the Council of Ministers, and shall coordinate the work of the central and local agencies of the State;

(e) In matters relating to the discharge of the functions of the Council of Ministers, the Prime Minister shall have the right to issue binding orders to Ministers, provincial governors and heads of central and local agencies of the State and to require them to submit reports on the discharge of their functions;

(f) The Prime Minister shall have the right to suspend the implementation of decisions taken by Ministers, provincial governors or the heads of central and local agencies of the State if they are inconsistent with the State's policy. He shall submit such suspension orders, together with a statement of the reasons therefor, within one month to the Council of Ministers, which shall be empowered to approve, modify or annul such orders;

(g) In exceptional circumstances in which there is a need to implement the State's general policy, the Prime Minister may take decisions or issue orders, in accordance with or pursuant to laws and presidential decrees, before they have been approved by the Council of Ministers. He shall submit them to the Council of Ministers at its next meeting and they shall be deemed null and void if the Council fails to approve them. The criteria and rules regulating this empowerment are clearly defined in the implementing regulations;

(h) Powers of attorney may be issued, under the signature of the Prime Minister, for any members of the Council of Ministers to initial agreements which need to be concluded, in the public interest, with other States or international or regional bodies or organizations.

5. Functions and powers of members of the Council of Ministers

63. The Council of Ministers Act No. 20 of 1991 defines the functions and powers of members of the Council of Ministers as follows:

(a) Without prejudice to any of the powers vested in the Prime Minister under the terms of the Constitution and the laws in force, the Deputy Prime Ministers shall assist him in the discharge of his functions. The implementing regulations shall specify their respective functions and powers, with due regard for the powers vested in any one of them under the terms of the decree forming the Government;

(b) The members of the Council of Ministers shall exercise the functions and powers assigned to them, each member of the Council being individually answerable for the actions undertaken in his field of jurisdiction. All the members of the Council shall be jointly answerable for the actions of the Ministers and shall have an obligation to implement the general policy of the State in accordance with the laws defining their fields of jurisdiction. They shall all be answerable and accountable to the Council of Ministers and the President of the Republic. The Ministers shall be answerable to the Prime Minister in respect of their exercise of their respective functions and powers;

(c) The members of the Council of Ministers shall have an obligation to take the decisions and measures needed to discharge the functions assigned to them in their respective fields of jurisdiction in accordance with the Constitution, the law, the decrees and regulations promulgated by the President of the Republic and the decisions taken by the Council of

Ministers. They shall also have an obligation to direct and supervise the implementation of the decisions that they take and to develop and train technical human resources and manpower within the framework of the agencies that they are supervising;

(d) The members of the Council of Ministers shall submit proposals concerning the Council's agenda and work plan in accordance with principles, rules and criteria laid down in its rules of procedure;

(e) The members of the Council of Ministers shall coordinate among themselves on matters which require such coordination and shall endeavour to settle matters on which there is controversy, pending which they shall submit their differing viewpoints, in clear and comprehensive written form, to the Prime Minister;

(f) The members of the Council of Ministers may submit any urgent matter falling within their field of jurisdiction to the Prime Minister, requesting his opinion and guidance thereon, in a written memorandum giving a detailed presentation of the matter in question and their viewpoints thereon;

(g) The members of the Council of Ministers shall inform the Prime Minister or the Council of major occurrences and violations of the regulations or policy of the State, as well as anything that impedes or prevents the implementation of laws or decrees, in their respective fields;

(h) The members of the Council of Ministers shall discharge their respective functions and responsibilities, as defined in the decree forming the Government or the decrees under the terms of which they were appointed. Each of them shall also assume the functions and powers legally vested in members of the Council of Ministers and shall carry out the tasks and functions assigned to him in his capacity as a member of the highest authority.

6. Vote of confidence in the Government and responsibilities of Ministers

64. Within a maximum of 25 days from the date of formation of the Government, the Prime Minister must submit the Government's manifesto to the House of Representatives for a majority vote of confidence. If the House is not in regular session, the President of the Republic must convene it for an extraordinary session. The members of the House, as a whole, have the right to comment on the Government's manifesto. The Government's failure to obtain the required majority is deemed equivalent to a withholding of confidence (article 86 of the Constitution).

65. The members of the Council of Ministers exercise the functions and powers assigned to them, each member of the House being individually answerable for the actions undertaken in his field of jurisdiction. All the members of the House are jointly answerable for the actions of the Ministers, by which they are bound and in respect of which they are accountable to the House of Representatives and the President of the Republic. The Ministers are answerable to the Prime Minister in respect of their individual exercise of the functions and powers vested in them

for the discharge of the tasks assigned to each Ministry. Each Minister supervises the affairs of his Ministry, directs its central and branch administrations in all parts of the Republic and must implement the Government's general policy in his Ministry in accordance with the laws, regulations and decrees in force.

7. Meetings of the Council of Ministers

66. The Council of Ministers holds one regular meeting every week and may be convened for extraordinary meetings, if necessary, in the manner stipulated in its rules of procedure. To attain a quorum, meetings of the Council of Ministers must be attended by a majority of its members. Decisions are taken by a majority vote among the members present, the chairman having a casting vote in the event of a tied vote. All the members of the Council of Ministers have an obligation to act in accordance with the decisions taken by the Council.

8. Relationship with the President of the Republic

67. The Council of Ministers must provide the President of the Republic with periodic reports on the progress of its work and must also present the reports, information, data or studies requested by the President of the Republic. The President of the Republic may also convene the Council of Ministers for a meeting under his chairmanship to discuss the country's situation or other urgent matters.

9. The local councils

68. Article 145 of the Constitution stipulates that the territory of the Republic of Yemen shall be divided into administrative units the number, boundaries and subdivisions of which, as well as the manner of nomination and selection of their heads, shall be specified by law.

69. The administrative units (governorates and districts) enjoy corporate personality, each having a local council which is freely elected on the basis of direct and equal suffrage. These councils propose programmes, plans and investment budgets for their administrative units and are empowered to supervise, control and call to account the organs of the local authority. The Constitution also adopts the principle of administrative and financial decentralization as the basis of the system of local administration (article 147 of the Constitution).

70. Each administrative unit and local council constitutes an integral part of the State authority, the provincial governors being accountable and answerable to the President of the Republic and the Council of Ministers. The manner of control of the actions of local councils is determined by law. The Local Authority Act No. 4 of 2000 contains textual provisions that regulate the activities, powers and financial resources of the local councils and executive organs in the administrative units, as well as the procedure for the control of their actions and the procedure for their dissolution.

71. The first elections to the local councils in the country's governorates, which were held in February 2001, added a new element to the democratic structure in Yemen.

G. The judicial authority

72. The judicial authority is responsible for interpreting and applying the law in the various disputes brought before it. The independence of the judiciary, which constitutes a basic safeguard for the rights and freedoms of citizens and is also an essential requirement for preservation of the rule of law, inspires people with confidence in the impartiality of the judiciary and the legitimacy of the political system.

73. The judiciary is a legally, financially and administratively independent authority the organs of which include the Department of Public Prosecutions. All disputes and offences are adjudicated by the courts, the judges of which are independent and, in their administration of justice, subject to no authority other than the law. No one is permitted to interfere in any way in lawsuits or other judicial affairs, such interference being deemed a punishable offence in respect of which legal proceedings are not subject to any statute of limitations (article 149 of the Constitution).

74. The organs and functions of the judiciary are regulated by the Judicial Authority Act No. 1 of 1991. Citizens have the right to apply to the judiciary and its courts for legal redress in accordance with article 51 of the Constitution, which stipulates that: "Citizens shall have the right to apply to the judiciary to protect their legitimate rights and interests. They shall also have the right to submit complaints, criticisms and proposals, either directly or indirectly, to the agencies and institutions of the State."

75. The judicial system in Yemen comprises the following:

- The Supreme Council of the Judiciary;
- The courts;
- The Department of Public Prosecutions;
- The Judicial Inspection Authority;
- The Ministry of Justice.

1. The Supreme Council of the Judiciary

76. The Supreme Council of the Judiciary endeavours to ensure that the safeguards enjoyed by judges in regard to appointment, promotion, dismissal, transfer, retirement and separation from service are applied in accordance with the Judicial Authority Act No. 1 of 1991. It is the body empowered to discipline judges and members of the Department of Public Prosecutions in the event of any breach of their official duties. It formulates the general policy in regard to development of the judiciary, studies bills of law concerning the judiciary and also studies and approves the draft budget of the judiciary. However, the Council is not a judicial body and,

therefore, no directives can be issued by it, or in its name, to the courts or judges in connection with cases which have been referred to them or in which judgements have been handed down, nor is it an administrative or executive organ in the name of which administrative or executive directives concerning judges can be issued.

2. The courts

77. The courts consist of the following:

- The Supreme Court;
- The courts of appeal;
- The courts of first instance.

The courts are the judicial bodies competent to adjudicate in all disputes and offences. Their fields of competence and geographical jurisdiction are defined by law.

(a) The Supreme Court

78. The Supreme Court, which is the highest judicial body in the Republic of Yemen and sits in the capital Sana'a, consists of a President, one or more Vice-Presidents and an adequate number of judges, their number being determined at the time of formation of the Court, and whenever necessary thereafter, under the terms of a decree promulgated by the Minister of Justice in consultation with the President of the Court after the Supreme Council of the Judiciary has granted its approval. The members of the Court are appointed by a decree issued by the President of the Republic on the basis of a recommendation from the Supreme Council of the Judiciary. The Supreme Court exercises the following functions.

Verification of the constitutionality of legislation, bill of law, regulations and decrees; adjudication in jurisdictional disputes between judicial bodies; adjudication in election contests; adjudication in appeals against final judgements which have become enforceable; and judicial control of all the courts in the Republic.

79. The Supreme Court, which enjoys financial and administrative autonomy, comprises Constitutional, Civil, Commercial, Criminal, Personal Status, Administrative, Military and Appeal Divisions the composition of which is determined by the Supreme Council of the Judiciary. Each Division has a bench consisting of five judges, with the exception of the Constitutional Division which has seven judges. Decisions and judgements are handed down by absolute majority.

(b) The courts of appeal

80. The courts of appeal, being constituted as and when required, are not restricted in number. They are competent to hear cases in which appeals are permitted by law, as well as other cases in which they have jurisdiction under the terms of any other legislation. Their judgements can be challenged before the Supreme Court.

(c) The courts of first instance

81. The courts of first instance constitute the courts of primary jurisdiction, the judgements of which can be challenged before the courts of appeal. There are specialized courts which hear cases involving public property, traffic offences and commercial matters, etc. Yemeni law prohibits all forms of special courts, such as State security courts. Juveniles are tried in accordance with the Juveniles Act.

3. The Department of Public Prosecutions

82. This is the body entrusted with the defence of society. It investigates offences, collects evidence, indicts offenders, institutes criminal proceedings and monitors court procedures and the enforcement of court orders and judgements in criminal matters. It is also responsible for inspecting detention centres and prisons in order to ensure that their inmates are being detained in a lawful manner.

The Attorney-General

83. The Attorney-General is responsible for instituting criminal proceedings on behalf of society. He does so in person, or through his assistants, in collaboration with the members of the Department of Public Prosecutions unless otherwise explicitly stipulated. The members of the Department of Public Prosecutions are subject to the provisions of the Judicial Authority Act in the same way as other members of the judiciary, particularly in regard to conditions of appointment, transfer, assignment, rights and obligations, prohibitions and immunities, supervision, inspection, control, accountability and discipline, unless otherwise explicitly stipulated.

4. The Judicial Inspection Authority

84. This body, which is an organ of the Ministry of Justice, monitors and evaluates the competence and conduct of judges. It is empowered to receive complaints against judges and has an obligation to keep the administration of justice under surveillance and to submit to the Minister of Justice any proposals that it deems appropriate in this regard. It must inform the judges concerned of anything noted against them. The Judicial Inspection Authority is not regarded as a judicial body, since it does not have the right to issue directives or orders to the courts concerning cases brought before them, nor does it have the right to do so when conducting unannounced inspections. Such inspection is a technical function that relies on access to legal records, information and documents which reflect the work of the judiciary and enable the inspectors to evaluate a judge's ability to understand the substantive and procedural rules laid down in legal texts and to apply them properly to the facts of the case when adjudicating in disputes. This evaluation is carried out by monitoring judgements and decisions after they have been handed down. In other words, judicial inspection is based solely on legal judgements and procedures in cases which have already been heard and adjudicated by a judge. Its purpose is to evaluate his competence and not to supervise the administration of justice in cases which are being heard.

5. The Ministry of Justice

85. This is the executive agency which endeavours to serve and develop the judicial bodies in such a way as to ensure that they discharge their function of administering justice and protecting the legitimate rights of the people by providing all the technical, financial and administrative services and facilities needed by the courts and the judges working therein. The Ministry is not a judicial body and, therefore, does not interfere in judicial business, nor does it issue any directives or orders to the courts in connection with cases brought before them.

86. Candidates for posts in the judicial authority are required to meet the following conditions:

(a) They must be Yemeni citizens enjoying full legal capacity and must be free from disabilities that might affect their administration of justice;

(b) They must not be under 30 years of age and cannot assume a judicial function until they have completed a minimum of two years' training in the judicial sphere;

(c) They must have obtained a diploma from the Higher Judicial Institute after being awarded a university degree in Islamic and positive law or in jurisprudence from a recognized university in or outside the Republic of Yemen;

(d) They must be of good conduct, standing and reputation and must not have been convicted of an offence prejudicial to honour or integrity.

6. Independence of the judiciary

87. The Judicial Authority Act No. 1 of 1991 emphasizes that the judiciary is an independent authority. This is also confirmed in article 149 of the Constitution, which stipulates that: "The judiciary shall be a legally, financially and administratively independent authority, the organs of which shall include the Department of Public Prosecutions. All disputes and offences shall be adjudicated by the courts, the judges of which shall be independent and, in their administration of justice, subject to no authority other than the law. No one shall be permitted to interfere in any way in lawsuits or other judicial affairs, such interference being deemed a punishable offence in respect of which legal proceedings shall not be subject to any statute of limitations." The independence of the judiciary is a firmly established and essential prerequisite for the achievement of justice in society. If the judiciary were not independent, there could be no justice. If government is to be based on justice, justice itself must be based on an independent judiciary.

7. Guarantee of the impartiality of the judiciary

88. In order to guarantee the impartiality and independence of the judiciary, the Judicial Authority Act No. 1 of 1991 stipulates that it is prohibited for judges to engage in commerce or to combine their judicial function with any other function or activity that would be incompatible with the duties of a judge or the independence and honour of the judiciary. Before assuming his duties, anyone who is appointed to a post in the judicial authority is required to submit a list of

the financial assets and real property that he owns and this list is reviewed every year by the competent authority in the Supreme Council of the Judiciary. It is prohibited by law for judges to disclose confidential deliberations and every person appointed to a post in the judicial authority is required to take the oath before assuming his duties.

8. Immunity of judges

89. The immunities enjoyed by judges include the following:

(a) Judges can be dismissed from office only if they are convicted in an impeachment action in accordance with the provisions of the Judicial Authority Act;

(b) Except in cases of flagrante delicto, a judge can be arrested or held in preventive detention only with the permission of the Supreme Council of the Judiciary, which is empowered to authorize his continued detention or order his release with or without bail;

(c) Criminal proceedings can be brought against judges only if so authorized by the Supreme Council of the Judiciary at the request of the Attorney-General. The court before which the judge would be tried would be designated by the Supreme Council of the Judiciary.

H. The legal system under which human rights are protected

1. Rights and freedoms guaranteed by the Constitution of the Republic of Yemen

90. The purpose of the Yemeni revolution was to guarantee and protect the human rights of the Yemeni people and, to this end, legislation has been promulgated, plans have been formulated, policies have been implemented and numerous national institutions and non-governmental organizations have been established. These public rights and freedoms include the right to life, the right to security, the right to own property, the right to work, freedom of belief and worship and freedom of opinion and expression, etc. The numerous rights and freedoms guaranteed by the Constitution of the Republic of Yemen include the following:

(a) The right of citizenship: This is an inherent human right which entitles a person to enjoy other rights. Anyone who is deprived of this right would become stateless and would lack legal protection. Accordingly, no Yemeni citizen may under any circumstances be stripped of his nationality (article 44 of the Constitution), or extradited to a foreign authority (article 45 of the Constitution);

(b) The right to equality: This is a basic human right which implies legal equality, political equality and the equal right to vote and stand as a candidate for public office provided that the conditions of eligibility therefor are met. All citizens are equal before the law and in regard to their public rights and obligations (article 41 of the Constitution); the State guarantees equal opportunities for all citizens in the political, economic, social and cultural spheres (article 24 of the Constitution); and every citizen has the right to participate in political, economic, social and cultural life (article 42 of the Constitution);

(c) The right to a stable and secure life: No one may be deprived of his liberty except under the terms of a judgement handed down by a competent court and no one may be arrested, searched or detained except in cases of flagrante delicto or by order of the Department of Public Prosecutions or a court judge in accordance with the provisions of the law (article 48 of the Constitution). In order to safeguard personal liberty, any citizen who is arrested must be brought before a court within 24 hours from the time of his arrest and has the right to summon his lawyer to attend the examination, as well as the right to notify his relatives or other persons concerned. If he is sentenced to imprisonment by a competent court, his human dignity must be preserved and he must not be subjected to torture or other forms of harm, nor may he be detained in places other than those designated for that purpose (article 48 of the Constitution);

(d) The right to protection of privacy: The Constitution guarantees the inviolability of the homes, property and honour of citizens. It is prohibited to search homes or place them under surveillance (article 52 of the Constitution);

(e) The right to freedom of expression: Citizens have the right to state their views by every available means, whether verbally, in writing or through publication or assembly, in the manner that they believe will express their opinions or positions (article 42 of the Constitution);

(f) The right to freedom and confidentiality of communication: It is prohibited to censure, delay or disclose the confidential content of postal, telegraphic or telephone communications except where otherwise provided by law (article 53 of the Constitution);

(g) The right to education: The State guarantees the right of all its citizens to education through the establishment of educational institutions and the creation of appropriate conditions for education, which is compulsory at the primary stage (article 54 of the Constitution);

(h) The economic and social rights and freedoms of citizens: Like political rights and freedoms, the purpose of economic and social rights and freedoms is to secure the resources or benefits that every citizen needs in order to guarantee a decent life for himself and his dependants. One of the Government's most imperative duties is to endeavour to overcome the difficulties that prevent citizens from enjoying these rights. The right to work, the right to free choice of employment, the right to own property and the right to social justice are the principal individual rights and freedoms in the economic and social fields. The State has an obligation to promulgate legislation in order to protect producers and consumers, ensure the availability of basic commodities for citizens, prevent monopoly and encourage private capital to invest in the various fields of socio-economic development in accordance with the law.

91. The Constitution recognizes the right to engage in private economic activity and to own property in a manner that is not detrimental to the public interest. It is stipulated that the principles on which the national economy is based include "the protection of private property, which may be expropriated only in the public interest and in return for fair compensation in accordance with the law (article 7 (c) of the Constitution). Article 20 of the Constitution further stipulates that general confiscation of property is prohibited and limited confiscation is permitted only under the terms of a court order.

2. International conventions to which Yemen has acceded

92. Yemen has been among the first States in the region to ratify international human rights instruments. The former northern and southern halves of Yemen signed a number of conventions which the Republic of Yemen inherited after the proclamation of reunification on 22 May 1990. These conventions, with the dates of accession or ratification, are as follows:

(a) General instruments in the field of international human rights law:

(i) The Universal Declaration of Human Rights;

(ii) The International Covenant on Economic, Social and Cultural Rights (9 February 1987);

(iii) The International Covenant on Civil and Political Rights (9 February 1987);

(b) Conventions concerning the prevention of discrimination:

(i) The International Convention on the Elimination of All Forms of Racial Discrimination (18 October 1972);

(ii) The International Convention on the Suppression and Punishment of the Crime of Apartheid (17 August 1987);

(c) Conventions concerning torture, genocide, war crimes and crimes against humanity:

(i) The Convention on the Prevention and Punishment of the Crime of Genocide (9 February 1987);

(ii) The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (9 February 1987);

(iii) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (5 November 1991);

(d) Conventions concerning women:

(i) The Convention on the Elimination of All Forms of Discrimination against Women (30 May 1984);

(ii) The Convention on the Political Rights of Women (9 February 1987);

(e) Conventions concerning children:

(i) The Convention on the Rights of the Child (1 May 1991);

(f) Conventions concerning marriage, family and youth:

(i) The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (9 February 1987);

(g) Conventions concerning international humanitarian law:

(i) The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (16 July 1970);

(ii) The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (16 July 1970);

(iii) The Geneva Convention relative to the Treatment of Prisoners of War (16 July 1970);

(iv) The Geneva Convention relative to the Protection of Civilian Persons in Time of War (16 July 1970);

(v) The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (17 April 1990);

(vi) The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (17 April 1990);

(h) Conventions relating to slavery, servitude, forced labour and similar institutions and practices:

(i) The 1953 Protocol amending the Slavery Convention of 1926 (9 February 1987);

(ii) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (6 April 1989);

(i) Conventions concerning refugees:

(i) The Convention relating to the Status of Refugees of 1951 (18 January 1980);

(ii) The Protocol relating to the Status of Refugees (18 January 1980).

3. National institutions for the protection of human rights

93. **(a) The Public Rights and Freedoms Committee of the Consultative Council:** This Committee, attached to the former Consultative Council which was modified in accordance with the recent fifth amendment to the Constitution, plays an advisory role in the protection and promotion of human rights, press freedom and civil organizations and has investigated cases and incidents relating to human rights, particularly in prisons;

(b) The Public Rights and Freedoms Committee of the House of Representatives: This Committee, which is one of the standing committees of the House of Representatives, plays an important role in the ratification of international human rights instruments. It is responsible, inter alia, for ensuring that the national legislation promulgated by the House is consistent with the obligations imposed by international conventions. It is competent to look into human rights issues and investigate any violations that might occur and is also empowered to question the Government and call it to account for any alleged violations of human rights.

(c) The Grievances Committee of the House of Representatives: This Committee, which is one of the standing committees of the House of Representatives, plays an important role in addressing and discussing grievances relating to human rights. Its functions include examination of the complaints submitted to it and the investigation of any violations that might occur. In its capacity as a parliamentary body, it is empowered to question the Government and call it to account for any alleged violations of human rights;

(d) The Higher National Human Rights Committee: Since the establishment of the Republic of Yemen on 22 May 1990, the Government has shown concern for human rights and public and private freedoms, as illustrated by the Constitution and other legislation which it has promulgated. This concern has also been reflected in its rapid signature and ratification of international and regional instruments and conventions concerning human rights. Responsibility for human rights matters was vested in a number of governmental bodies until 1997, when a governmental committee known as the "Committee on Political and Civil Human Rights" was established by decision of the Prime Minister.

94. Believing in the importance of human rights, the Yemeni Government established a Higher National Human Rights Committee to replace the Committee on Civil and Political Human Rights under the terms of Presidential Decree No. 20 of 1998, as amended by Decree No. 92 of 1999. Both decrees sought to ensure that the largest possible number of governmental bodies directly concerned with human rights questions and issues, as well as non-governmental organizations and prominent social personalities, were represented on the Committee. Both decrees also specified the Committee's functions and working methods in the light of the organizational structure and statutes of the Committee and its subcommittees. The new Committee is chaired by the Deputy Prime Minister and Minister for Foreign Affairs or, in his absence, by the Director of the Office of the President of the Republic. The Committee's membership includes Ministers and heads of departments concerned with human rights questions and issues, such as the Minister of the Interior, the Minister for Social Insurance and Social Affairs, the Minister for Legal and House of Representatives' Affairs, the Minister of Justice, the Minister for Labour and Vocational Training, the Minister of Information, the Attorney-General,

the head of the Judicial Inspection Authority and the head of the Central Political Security Agency. The composition of the Committee is currently being discussed with a view to the inclusion of the Minister of State for Human Rights, a new portfolio that was added during the governmental restructuring in April 2001.

1. Functions and responsibilities of the National Committee

95. The Presidential Decree establishing the Higher National Committee and promulgating its statutes specified the following principal functions to be assumed by the Higher Committee and its Standing Subcommittee:

(a) Formulation of policies, plans and programmes to safeguard human rights in the Republic of Yemen and strengthen the role of the bodies responsible for protecting human rights in general, and handling issues relating thereto, in accordance with the Constitution, the laws in force and the international conventions and instruments which our country has ratified;

(b) Supervision of the sound and proper implementation by the national authorities concerned of international conventions and instruments relating to human rights;

(c) Support and encouragement of non-governmental organizations operating in the field of human rights in our country;

(d) Supervision of the preparation of the periodic reports submitted to international organizations by the national authorities concerned on the extent to which the international human rights conventions and instruments which our country has ratified are being implemented;

(e) Receipt and study of letters, notes and communications from various international personalities, organizations and institutions concerned with human rights and the submission of individual replies thereto in accordance with the rules and principles laid down by the Higher National Committee in this regard;

(f) Collection and documentation of all international conventions, instruments and covenants, as well as other details and information concerning human rights-related fields and activities;

(g) Submission of views and comments on laws, instruments, conventions and reports concerning human rights;

(h) Study of reports received from international human rights organizations with a view to expressing an opinion thereon and replying thereto;

(i) Preparation of the requisite studies, reports and analyses on human rights issues in our country and the proposal of appropriate solutions and ways to address problematic aspects thereof;

(j) Supervision of the preparation and implementation of activities illustrating our country's participation in, and celebration of, events commemorating the achievements that the international community has made in the field of human rights.

2. Structure of the Higher National Human Rights Committee

96. The Higher National Committee consists of the following:

(a) A Higher Committee;

(b) A Standing Subcommittee;

(c) An Advisory Body;

(d) A Technical Secretariat;

A. The Higher Committee

97. The Higher Committee includes among its members the heads of the governmental departments concerned with human rights, represented by the following:

The Minister for Foreign Affairs	Chairman
The Director of the Office of the President of the Republic	Deputy Chairman
The Minister for Legal and House of Representatives' Affairs	Member
The Minister of Justice	Member
The Minister of Information	Member
The Minister for Labour and Vocation Training	Member
The Minister for Social Insurance and Social Affairs	Member
The Minister of the Interior	Member
The Attorney-General	Member
The head of the Central Political Security Agency	Member
The head of the Judicial Inspection Authority	Member
The General Coordinator	Member

(b) The Standing Subcommittee

98. The Standing Subcommittee, which is chaired by the General Coordinator of the Higher National Committee and includes among its member two permanent representatives of the above-mentioned departments, is an executive committee the composition of which is determined by the Chairman of the Higher National Committee, which has a Technical Secretariat to organize and monitor its functions and activities.

(c) The Advisory Body

99. The 30-member Advisory Body consists of social and academic personalities concerned with, or working in, fields relating to human rights who are appointed by decision of the Prime Minister on the basis of a proposal from the Higher National Human Rights Committee. The task of the Advisory Body is to submit its views and advice on human rights matters referred to it and to help to formulate policies, plans and programmes for the protection and promotion of human rights.

(d) Working methods of the Higher National Committee

100. Yemen is among the first States to ratify international human rights instruments. Accordingly, the Higher National Human Rights Committee is responsible for monitoring the fulfilment of Yemen's obligations arising from the international instruments that it has signed. The Committee also closely monitors the human rights situation in Yemen in order to prevent any violation of those rights. It conducts its work through regular or extraordinary meetings organized by the Standing Subcommittee which, in turn, constitutes a permanent workshop that addresses every issue referred to it in any field relating to human rights.

(e) Measures for the protection of human rights

101. Freedom to establish non-governmental organizations, trade unions and civil institutions; freedom of the press; and the establishment of a human rights fund into which voluntary contributions can be paid to help to solve human rights-related problems.

(f) Non-governmental human rights organizations

102. Following the establishment of the Republic of Yemen in 1990, which ushered in an era of democratization and active civil institutions, the number of non-governmental organizations and institutions engaged in activities relating to the protection and promotion of human rights in general or focusing on a particular field, such as political, civil, economic or cultural rights or protection of the rights of a specific section of society, such as women, children or the disabled, increased considerably and currently amounts to about 2,000.

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I. LAND AND PEOPLE

A. Geography and climate

Geography

1. The Republic of Turkey, situated at the crossroads of the Asian, European and African continents, is bordered by Georgia, Armenia, Nakhichevan (Azerbaijan) and Iran to the east, Bulgaria and Greece to the west and Syria and Iraq to the south. Turkey's coastlines encompass her on three sides with the Mediterranean Sea to the south, the Black Sea to the north and the Aegean Sea to the west.

2. The surface area of the Republic of Turkey is 814,578 square kilometres. Three per cent of this area is located in Thrace on the European continent. The remaining 97 per cent, which is located on the Asian continent, is called Anatolia. Turkey, which resembles a rectangle, has a width of approximately 550 km and a length of about 1,500 km. The length of the coastline is 8,333 km and the length of the land borders is 2,875 km.

3. Turkey is a generally high country and the surface morphologies are quite varied. The mountains in Turkey cover an extensive area, but in contrast to this, there are also many areas where there are various plains, plateaus and depressions. This characteristic varies the climate on the one hand, and influences settlements and economic life on the other. Turkey is divided into seven geographical regions by taking into consideration factors such as climate, natural plant cover and distribution of types of agriculture, namely the Mediterranean, Aegean, Marmara, Black Sea, Central Anatolia, Eastern Anatolia and South-eastern Anatolia regions.

4. The main mountain ranges in Turkey, which is a mountainous country, generally extend parallel to the coasts to the north and to the south. The mountains to the north are the North Anatolia Mountains and to the south the Taurus Mountains. These mountain ranges are separated from each other by large plains in the central sections of Anatolia. The mountain ranges are concentrated in the eastern sections of Turkey and form high peaks. The elevation decreases in the western section. There are few mountain ranges in the Aegean and the Marmara regions. These regions are mostly depressions. There are also extensive plains in South-eastern Anatolia as in the central sections of Turkey, which remain outside the extensions of the Taurus Mountains.

5. There are many rivers and streams in Turkey. A large portion of these rivers are used for energy production. Most of these rivers empty into the seas which surround Turkey, while some of them reach other seas after leaving Turkey's borders. The Euphrates and Tigris rivers, the main rivers in Eastern and South-eastern Anatolia, flow into the Persian Gulf; the Yeşilırmak, Kızılırmak and Sakarya rivers in Central Anatolia flow into the Black Sea; the Susurluk, Biga and Gönen Streams in the west flow into the Marmara Sea; and the Gediz, Büyük and Küçük Menderes rivers flow into the Aegean Sea. The main rivers that flow into the Mediterranean Sea are the Seyhan, Ceyhan and Göksu rivers, and the Dalaman and Esen streams. The longest river within the borders of Turkey is the Kızılırmak (1,355 km).

6. The total area of Turkey's lakes is around 9,200 square kilometres. Eastern Anatolia is the most abundant region from the aspect of the number of lakes. Lake Van (3,713 square kilometres) is Turkey's largest lake. The freshwater lakes are used for irrigation and many lakes for fishing. Fairly large reservoirs have been made in the past 30 years as a result of the widespread construction of dams.

7. Turkey is surrounded by seas on three sides and connected to the oceans with the seaways. The Marmara Sea and the Turkish Straits are very important water passages which open the Black Sea to the outside world. The Marmara Sea, which is located completely within the national borders, opens to the Black Sea via the Istanbul Strait and to the Aegean Sea and the Mediterranean Sea via the Çanakkale Strait. The Aegean and Western Mediterranean shores in Turkey are indented and numerous bays are located in these places. This attribute of the coasts decreases towards the east of the Mediterranean.

Climate

8. In spite of Turkey being located in a moderate climate belt, due to the fact that the mountains are parallel to the coasts and the diversification of the surface morphology, differences in climate are observed among the regions. The coastal regions have a moderate maritime climate while the internal regions surrounded by mountains have a continental climate. The Mediterranean region, which is under the influence of the Mediterranean climate, has hot and arid summers and mild and rainy winters. The Mediterranean climate also manifests itself in the Aegean region and in the south of the Marmara region. The Black Sea region is dominated by a more moderate and rainy maritime climate. In the interior regions, the summers are hot and slightly rainy and a steppe climate is observed in the winters which are cold and snowy. In the Eastern Anatolia region, the summers are cool and the winters are very cold and snowy. In the South-eastern Anatolia region, while the summers are hot and arid, the winters are not very cold.

B. Population

9. Demographic data (for 2000):

Total population	65,293,000
Percentage of urban population	67.6
Percentage of rural population	32.4
Population density	85 inhabitants per square kilometre
Population growth rate	14.8 per thousand inhabitants
Birth rate	21.8 per thousand inhabitants
Mortality rate	6.7 per thousand inhabitants
Global fertility rate	2.5 children per woman
Infant mortality rate	35.3 per thousand live births
Maternal mortality rate	55 per 100,000 live births
Life expectancy	66.9 years for men 71.5 years for women (69.1 years overall)

Proportion of population under 15 years of age	29.9 per cent
Proportion of population over 65 years of age	5.6 per cent
Rate of literacy	94.2 per cent for men 77.4 per cent for women (85.8 per cent overall)

10. Economic indicators (for 2000):

Gross National Product	$198.6 billion
Per capita GNP	$2,986
Annual rate of inflation	39 per cent
Rate of unemployment	6.6 per cent

II. GENERAL POLITICAL STRUCTURE

A. History

11. Throughout history, the Turks have established numerous States in different geographical areas on the continents of Asia and Europe. Over the centuries, the Turks founded a number of powerful States on the plains of Central Asia before migrating westwards. The Seljuk Turks, who settled in the Anatolian peninsula after the Battle of Malazgirt in 1071, reigned over the area for approximately 200 years. The Ottoman Empire, founded at the beginning of the fourteenth century, controlled vast territories in Europe, Asia and Africa, and was a major power for more than six centuries. Following the collapse of the Ottoman Empire, the Republic of Turkey was founded on 29 October 1923. With the successful reforms of Mustafa Kemal Atatürk, the founder of the Republic, Turkey has emerged as a modern State. Since its foundation, the Turkish Republic has always pursued a policy of peace. Maintaining friendly and mutually beneficial relations with all countries, promoting regional and international cooperation schemes, seeking to resolve conflicts through peaceful means and contributing to regional and international peace, stability and prosperity constitute the basic principles guiding Turkish foreign policy.

12. Turkey is a member of the North Atlantic Treaty Organization, the Council of Europe, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of the Islamic Conference, the Economic Cooperation Organization and the Black Sea Economic Cooperation Organization all at the same time. It is also an associate member with a view to full membership of the European Union.

B. The unitary structure of the State

13. The Republic of Turkey is a unitary State divided administratively into 81 provinces. The unitary structure of the State of the Republic of Turkey dates from the National Pact of 1920. The National Pact, which was adopted during the War of Independence, has determined the borders of the country. A great struggle was made to free the territory within these boundaries from foreign occupation and to establish a sovereign State on this territory.

This struggle determined the unitary structure of the State. Anatolia, which has hosted many civilizations throughout history, is a mosaic composed of various cultural diversities. The Constitution, by protecting this cultural mosaic, enshrines the indivisible entity of the State with its territory and nation. Its historical, social, economic, geographic and cultural factors have determined the form of the State.

14. The unitary State is organized in the form of the central administration and local administrations. The central administration, excluding the legislative and the judiciary organs, is composed of the Prime Ministry and the Ministries. Furthermore, there are organizations connected or related to the Ministries.

15. The Republic of Turkey has adopted a unitary State model with local administrations, not a model of a centralized, single structured unitary State. The administrative services of the country are carried out by individuals elected by the people in the different regions, besides the central administration. Local administration organizations (provincial special administrations, municipalities and villages) have their own public legal personalities, duties and authorities and assets separate from the State. The local administration organizations are governed with the laws put into effect by the central administration and continue their activities in the framework of these laws. A supervisory application called "administrative guardianship" has been adopted so that political party interests do not dominate the activities of the local administration organizations and they do not engage in procedures which are against equality. When the central administration uses its administrative guardianship, it supervises conformity to law, and sometimes its appropriateness as well. However, administrative guardianship cannot take the place of the local administration and perform transactions. For example, decisions made by the provincial general assembly are subject to the approval of the governor.

16. The Constitution envisions local administrations in two forms, as local and functional. The local administrations are the special provincial administrations, municipalities and villages. These are public legal personalities elected by the people as the general decision organs and to meet the local common needs. The functional administrations are also called "local service administrations" or "autonomous administrations". These are formed according to the attribute of the service and kept outside the general administration. They appeared as a requirement of contemporary society and have developed greatly in a short period of time. The professional organizations which have the characteristic of public organizations can be given as an example of these.

C. The Constitution

17. Activities for preparing a constitution in Turkey started in the second half of the nineteenth century, and the first Constitution was adopted in 1876 during the final period of the Ottoman Empire. The Constitution of 1921 was the second constitution promulgated, during the War of Independence, that included the rules necessitated by the conditions and requirements of the war. Three constitutions have been promulgated during the Republic Period. The first constitution of the Republic of Turkey was adopted in 1924, the second constitution in 1961 and the third constitution, which is in effect today, was adopted by a referendum in 1982.

18. The Republic of Turkey accepts the separation of powers, as do all contemporary democracies. In the preamble of the Constitution, which determines the foundations on which the State is based, it is emphasized that the separation of powers does not have the meaning of an order of superiority among the State organs, but it consists of the use of definite State authorities and functions and the cooperation among them.

19. According to the Constitution, unconditional and unrestricted sovereignty is vested in the nation. The people exercise their sovereignty directly through elections, and indirectly through the authorized organs within the framework of the principles laid down in the Constitution. The legislative, executive and judiciary are the organs which use sovereignty. The legislative power is vested in the Turkish Grand National Assembly (TGNA) and cannot be delegated. Executive power and functions are exercised and carried out by the President of the Republic and the Council of Ministers, in conformity with the Constitution and laws. Judicial power is exercised by independent courts on behalf of the Turkish nation.

20. The principle which brings the separation of powers into existence is the principle of a State based on the rule of law. This principle provides for the supremacy of law in the existence of the State and the society. The powers of the legislative and executive organs are limited and balanced with the judiciary as the result of the principle of the supremacy of law. All legislative and executive procedures and activities are subject to judicial control. Thus, democracy is protected in the State administration. The Constitution is equipped with the rules which safeguard this system. The provisions of the Constitution are basic legal regulations which bind the legislative, executive and judiciary organs, the Government and all real and legal persons. These provisions constitute the source of legality for governmental procedures.

21. The Constitution stipulates that the form of the State is a Republic and unconditional, unrestricted sovereignty belongs to the nation. The Republic of Turkey is a democratic, secular and social State based on the rule of law, respectful of human rights and committed to the nationalism of Atatürk.

22. The fact that unconditional and unrestricted sovereignty belongs to the nation reflects the democratic State model. The democracy adopted by the Constitution is representative democracy. The people elect their representatives with their votes, and thus they indirectly use their sovereign rights. Beyond this, sovereignty is used by the authorized organs in accordance with the principle of the separation of powers and the provisions of the Constitution. No one or organ can use the State authority that does not have its source from the Constitution. The referendum, which is the direct use of sovereignty, is envisaged only for amendments to the Constitution. Authorized organs for using sovereignty cannot be outside of democracy and the legal system determined by the requirements of democracy.

23. The State based on the rule of law foreseen in the Constitution is founded on the principle of the protection of fundamental rights and freedoms and the separation of powers. The supremacy of law is the foundation. Legislative procedures are subject to the control of the Constitutional Court and administrative procedures and activities are subject to the control of the Administrative Courts.

24. According to the principle of secularism enshrined in the Constitution, no one can make the basic social, economic, political and legal system of the State depend on religious rules, even partially; and no one can abuse religion, religious beliefs and objects which are considered to be sacred by religion in any manner whatsoever, with the objective of obtaining political or personal advantage or influence.

25. Political parties are indispensable components of democratic life. However, the Constitution guarantees the independence of the State, the inseparable unity of the country and nation, national sovereignty, advocacy of the freedom of democracy, secularism, human rights and freedoms and the principle of the State based on the rule of law.

D. The executive

26. The executive organ is composed of the President and the Council of Ministers. Some administrative units are also included in the section of the Constitution regarding the executive. Accordingly, the institutions mentioned in the Constitution by their names or organizational structure have the status of "constitutional institutions". The higher education institutions, the public professional institutions, the Turkish Radio and Television Corporation, the Atatürk Cultural, Linguistic and Historical Supreme Council and the Directorate of Religious Affairs are among these bodies.

The President

27. The President is the Head of State. He/she represents the Republic of Turkey and the unity of the Turkish Nation in this capacity. Those who are at least 40 years of age, deputies who have received higher education or Turkish citizens who are qualified to be elected as a deputy are elected by the TGNA by secret ballot and with a two-thirds majority of the total number of the Parliament members. The term of office is seven years. The person who is elected President severs his/her connection with his/her party, if any, and his/her TGNA membership ends. The President cannot be elected for a second term. The President, upon assuming his/her duties, takes the oath which is stated in the Constitution.

28. The President ensures the implementation of the Constitution and the organized and coordinated work of State bodies. He/she has functions and powers related to the legislative, executive and judicial fields. The President's functions in the legislative field are to summon the TGNA to meet when necessary; to promulgate laws and when deemed necessary to return laws to the Parliament to be reconsidered; to hold a referendum for Constitutional amendments when he/she considers it necessary; to appeal to the Constitutional Court claiming that there are violations of the Constitution related to laws, decrees having the force of law and the Internal Regulations of the TGNA; and to call new elections for the TGNA when conditions necessitate them. His/her functions in the executive field are quite comprehensive. He/she appoints the Prime Minister and the Ministers upon the proposal of the Prime Minister; accredits representatives of the Turkish State to foreign countries and receives representatives of foreign States; and ratifies and promulgates international agreements. Furthermore, he/she approves decrees as signatory; commutes or pardons the sentences of certain convicts if the conditions are

met; appoints the members of the State Supervisory Council, the Higher Education Council and university rectors. The President's functions related to the judiciary are limited to the appointment of members of the higher courts.

29. The Constitution includes two constitutional institutions in the section related to the Presidency: the Presidential General Secretariat and the State Supervisory Council. The State Supervisory Council performs its duties with a view to developing the regular and efficient functioning of the administration and its conformity to laws.

The Council of Ministers

30. The Council of Ministers is composed of the Prime Minister and the ministers. The Prime Minister is appointed by the President from among the members of the TGNA. Ministers are assigned by the Prime Minister from among the deputies or from among those eligible for election as deputies and they are appointed by the President. Ministers can be dismissed from their duties by the President upon the proposal of the Prime Minister, when deemed necessary.

31. When the Council of Ministers is formed, the Government's programme is read in the TGNA and a vote of confidence is taken. The Government assumes its duties when it obtains a vote of confidence. Members of the Council of Ministers are jointly responsible for the implementation of general policies. The formation, abolition, functions, powers and organization of the ministries are regulated by law.

32. The Constitution also includes national defence in the section related to the Council of Ministers. The authorities and functions of organizations arranged in this section are the Office of the Commander in Chief, the Office of the Chief of the General Staff and the National Security Council.

33. The National Security Council, presided over by the President, is composed of the Prime Minister, the Chief of the General Staff, the Minister of National Defence, the Minister of the Interior, the Minister of Foreign Affairs, the Commanders General of the Army, Navy and the Air Force and the Commander General of the Gendarmerie. It makes decisions related to the formulation, establishment and implementation of national security policy and informs the Council of Ministers about these decisions. The Council of Ministers gives priority consideration to the decisions of the National Security Council concerning the measures that it deems necessary for the preservation of the existence and independence of the State, the integrity and indivisibility of the country and the peace and security of society.

The administration

34. The administration is an entirety with its structure and functions and is regulated by law. The organization and functions of the administration are based on the principle of centralization and local administration. The central administration in Turkey is structured in the form of provinces, districts, sub-districts and villages. The local administrations are the special provincial administrations, the towns and the villages. Local administrations are public legal persons established to meet the common local needs of the inhabitants of provinces, towns and villages, whose decision-making organs are elected by the electorate.

E. The legislature

35. The Turkish Grand National Assembly is composed of 550 deputies. Parliamentary elections are held once every five years. Just as the Parliament can decide to hold new elections before this period is completed, the President, based on his constitutional authority, may also decide to hold new elections. The Parliament can decide to defer elections for one year in case of war. In case a vacancy occurs in the TGNA membership, an intermediary election is held once during every election term.

36. The elections are held under the general management and supervision of the judicial organs, and the method of election is determined by law. The law has to observe the principles of "justice in representation and stability in the administration". These principles, that were first determined with a decision by the Constitutional Court, were included in the Constitution in the amendments made on 25 July 1995.

37. Deputies represent the entire nation and when they assume office, they take an oath, the text of which is included in the Constitution. Deputies have immunities due to their votes and their opinions which they verbally express. The General Assembly of the Parliament must lift the immunity of deputies in order for them to be interrogated or have legal investigations opened, with the exception of being caught in the act of committing any crime. Punishment can be applied after their deputyships are completed.

38. The Turkish Grand National Assembly carries out its activities in accordance with its internal regulations. It is foreseen in the Constitution and the Internal Regulations that the Parliament should work in the form of commissions. The Commissions are formed according to various specialized areas. The Commissions are entrusted with the preliminary drafting of legislation, which must be approved by the General Assembly.

39. In addition to its special functions and powers prescribed in the Constitution, the TGNA enacts, amends and repeals laws; supervises the Council of Ministers and the ministers; gives authority to the Council of Ministers to issue decrees having the force of law and adopts the budget and final account draft laws. Furthermore, making decisions regarding the printing or minting of currency and declaration of war, martial law or emergency rule; ratifying international agreements signed by Turkey; making decisions for declaring general or special amnesties and making decisions for carrying out death penalty sentences given and finalized by the courts are also among the functions and powers of the TGNA.

F. The judiciary

40. Judicial power in Turkey is exercised by independent courts and supreme judiciary organs on behalf of the Turkish nation. The section of the Constitution on the judiciary is based on the absolute independence of courts and judges.

41. Court hearings are open to the public, excluding closed sessions which are decided in special situations. In crime and punishment, the principle of legality, the fact that the responsibility for the offence is individual and the presumption of innocence are valid.

42. Everyone has the right to claim or defend his/her rights as the plaintiff or the defendant in the courts. This is a right determined in the Constitution and is an important element of the principle of the State based on the rule of law. No one can be taken in front of an authority other than the court to which he/she is legally bound.

43. The right to judge has been given only to the independent judges. Judges and public prosecutors carry out their duties in line with the principles of independence and impartiality. Judges and public prosecutors cannot be forced to retire until they are 65 years old, if they do not request it themselves, cannot be dismissed and cannot be deprived of their salaries, allocations and other employee rights, even when a court or its permanent staff position is abolished.

44. The principles regarding the independence of the courts and security of tenure of judges and public prosecutors are defined in the third part of the Constitution, entitled "Judicial Power" (arts. 138-160). Accordingly, no organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, or send them circulars, make recommendations or suggestions. Also, no question can be asked, debates held or statements made in the Legislative Assembly relating to the exercise of judicial power concerning a case under trial. Legislative and executive organs and the administration are obliged to comply with court decisions.

45. The provisions of the Constitution are fundamental legal rules binding legislative, executive and judicial organs and administrative authorities and all other institutions and individuals. Laws cannot be in conflict with the Constitution. In order to substantiate this principle, a Constitutional Court was established which took a primus inter pares position among the higher courts of the judiciary.

46. The Constitutional Court examines the constitutionality, in respect of both form and substance, of laws, decrees having force of law and the rules of procedure of the Turkish Grand National Assembly. The President of the Republic, the parliamentary groups of the party in power and of the main opposition party and a minimum of one fifth of the total number of members of the Grand National Assembly (110 members) are entitled to apply for annulment action to the Constitutional Court, based on the assertion of the unconstitutionality of laws in form and in substance, of decrees having force of law, of rules of procedure of the Grand National Assembly or of specific articles or provisions thereof. Furthermore, if a court which is trying a case finds that the law or the decree having force of law which is to be applied is unconstitutional, or if it is convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it can apply to the Constitutional Court and postpone the consideration of the case until the Constitutional Court decides on this issue. Decisions of the Constitutional Court are final. These decisions cannot be amended in any manner and their application cannot be delayed.

47. The other functions of the Constitutional Court are as follows:

- Judging, in its capacity as the Supreme Court, the President, members of the Council of Ministers, members of the higher courts, the chairman and members of the Supreme Council of Judges and Public Prosecutors and of the Supreme Court of Public Accounts for crimes related to their duties;

- Examining cases advocating the closure of political parties and the requests of the Chief Prosecutor of the Supreme Court of Appeals to warn the political parties;

- Auditing the finances of political parties; and

- Reviewing decisions of the TGNA to revoke the immunities of deputies or to dismiss members of parliament.

48. The Constitutional Court is composed of 11 regular and 4 substitute members. Decisions are reached by convening the 11 members. The members are chosen according to special procedures and quotas from among the members of the Supreme Court of Appeals, the Council of State, the Supreme Military Court of Appeals, the Supreme Military Administrative Court and the Supreme Court of Public Accounts, as well as high-level administrators, academicians and lawyers.

49. Ordinary, administrative and military justice are organized separately in the Turkish legal system. In the light of article 142 of the Constitution, the organization, functions and jurisdictions of the courts and their functioning and trial procedures are regulated by law. Accordingly, in the Turkish legal system:

(a) The courts of justice consist of:

(i) General first instance courts:

- criminal courts, namely magistrate courts, general criminal courts and heavy penal (felony) courts;

- civil courts, namely civil courts of peace, general civil courts and commercial courts;

(ii) Specialized first instance courts:

- State security courts;

- juvenile courts;

- land registration courts;

- labour courts;

- intellectual property courts;

(iii) The Supreme Court of Appeals (also referred to as the Court of Cassation) which is the last instance for reviewing decisions and judgements given by courts of justice (art. 154 of the Constitution).

(b) The administrative court system is composed of:

(i) administrative courts;

(ii) tax courts;

(iii) regional administrative courts;

(iv) The Council of State which is the last instance for reviewing decisions and judgements given by administrative courts (art. 155 of the Constitution).

(c) Military justice is exercised by military courts and military disciplinary courts. These courts have jurisdiction to try military personnel for military offences, for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties. Military courts also have jurisdiction to try non-military persons for military offences specified in the special law, and for offences committed while performing their duties specified by law, or against military personnel in military places specified by law (art.145 of the Constitution). The Supreme Military Court of Appeals is the last instance for reviewing decisions and judgements given by military courts (art. 157 of the Constitution).

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Protection of fundamental rights in the Constitution

50. In the Preamble of the Constitution, it is stated that every Turkish citizen has the right to exercise the fundamental rights and freedoms set forth in the Constitution according to the requirements of equality and social justice, in order to lead a dignified life in the national culture, civilization and legal system; as well as the right and authority to develop one's material and spiritual being towards this end.

51. The principle of respect for human rights is mentioned in Article 2 of the Constitution as one of the fundamental characteristics of the Republic of Turkey, which is a democratic, secular and social State governed by the rule of law. Article 5 stipulates that one of the fundamental duties of the State is to strive for the removal of political, social and economic obstacles which restrict the fundamental rights and freedoms of the individual in a manner incompatible with the principles of justice and of the social State governed by the rule of law; and to provide the conditions required for the development of the individual's material and spiritual existence.

52. Article 10, which bears the title "Equality before the law", provides that all individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. The said article also stipulates that no privilege shall be granted to any individual, family, group and class and that State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

53. Part two of the Constitution covers fundamental rights and duties. The Constitution includes rules that are the result of perceptions of both natural law and contemporary law. In this respect, article 12 provides that everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable. This article also states that the fundamental rights and freedoms also include the duties and responsibilities of the individual towards society, his family and other individuals.

54. The rights and duties of the individual are outlined in chapter two of part two (arts. 17-40) of the Constitution, which has the same heading.

55. In the context of fundamental rights, the individual's right to life and to protect and develop his material and spiritual entity is recognized in article 17. The physical integrity of the individual cannot be violated, except under medical necessity and in cases prescribed by law; he cannot be subjected to scientific or medical experiments without his consent. No one can be subjected to torture or ill treatment, or to penalties or treatment incompatible with human dignity.

56. Forced labour is prohibited; no one can be required to perform forced labour. Unpaid compulsory work is prohibited (art. 18). Article 19 of the Constitution, entitled "Personal Liberty and Security", emphasizes that everyone has the right to liberty and security of person. This article clearly defines the conditions in which individuals against whom there are strong indications of having committed an offence can be arrested by decision of a judge, and provides for the following:

(a) Notification to individuals arrested or detained of the grounds for their arrest or detention and the charges against them;

(b) Notification of the situation of the persons arrested or detained to their next of kin, except in cases where necessities pertaining to the risks of revealing the scope and subject of the investigation compel otherwise;

(c) The right of detained or arrested persons to request to be tried within a reasonable time or to be released during investigation or prosecution;

(d) The right of persons deprived of their liberty to apply to the appropriate judicial authority for speedy conclusion of proceedings regarding their situation and for their release if the restriction placed upon them is not lawful.

57. In addition to the above-mentioned rights and freedoms, the following are also regulated and guaranteed in the Constitution: The privacy of individual life (art. 20); the inviolability of the home (art. 21); the freedom of communication (art. 22); the freedom of residence and travel (art. 23); the freedom of religion and conscience (art. 24); the freedom of thought and opinion (art. 25); the freedom of expression and dissemination of thought (art. 26); the freedom of science and arts (art. 27); the freedom of the press (art. 28); the freedom of association (art. 33); the right to hold meetings and demonstration marches (art. 34) and the right of property (art. 35).

58. The principles relating to offences and penalties are formulated in article 38 of the Constitution. According to this article:

(a) Penalties, and security measures in lieu of penalties, shall be prescribed only by law;

(b) No one shall be held guilty until proven guilty in a court of law;

(c) No one shall be compelled to make a statement that would incriminate himself or his legal next of kin, or to present such incriminating evidence;

(d) Criminal responsibility shall be personal; and

(e) The administration shall not impose any sanction resulting in restriction of personal liberty.

B. Remedies guaranteeing the exercise of fundamental rights

59. A basic tenet of the Turkish legal system is that the State is directly responsible for excessive deeds or offences committed by public officials. Consequently, requests for compensation for damages incurred from such acts are directed to the State.

60. In this respect, article 40 of the Constitution reads as follows:

> Everyone whose Constitutional rights and freedoms have been violated has the right to request prompt access to the competent authorities. Damages incurred by any person through unlawful treatment by holders of public office shall be compensated for by the State. The State reserves the right of recourse to the official responsible.

61. Article 125 of the Constitution, entitled "Recourse to judicial review", stipulates that recourse to judicial review shall be available against all actions and acts of the administration. This article also states that the administration is liable to compensate for damages resulting from its actions and acts.

62. Article 129 of the Constitution provides that actions for damages arising from faults committed by civil servants and other public employees in the exercise of their duties shall be brought against the administration.

63. Article 13 of Law No. 657 on Civil Servants stipulates that in case a loss occurs because of an unlawful act of a public official, the State shall be directly responsible and a case for compensation shall be opened in an administrative court. Article 467 of the Turkish Penal Code enables persons who have been subjected to ill-treatment causing losses and damage to file lawsuits for indemnity.

64. In the light of the above-mentioned Constitutional and legal provisions, Law No. 466 on Indemnifying People who are Unlawfully Arrested or Detained was adopted on 7 May 1964. According to this law, the following persons are entitled to receive compensation from the State:

(a) Those who have been unlawfully detained or arrested or whose detention period has been unlawfully prolonged;

(b) Those who have not been immediately informed of the grounds for their arrest or detention and the charges against them;

(c) Those who have not been brought before a judge after being arrested or detained within the time-limit laid down by statute for that purpose;

(d) Those who have been deprived of their liberty without a court order after the statutory time-limit for being brought before a judge has expired;

(e) Those whose next of kin have not been immediately informed of their arrest or detention;

(f) Those who, after being arrested or detained in accordance with the law, are not subsequently committed for trial, or are acquitted or discharged after standing trial;

(g) Those who have been sentenced to a period of imprisonment shorter than the period for which they were detained or have been ordered to pay a pecuniary penalty only.

65. Article 2 of Law No. 466 stipulates that any person who has sustained damage for the reasons set out in article 1 may lodge a claim for damages with the Heavy Penal (Felony) Court having jurisdiction in respect of his place of residence within three months of the date on which the decision concerning the allegations which form the basis of his claim becomes final.

66. In accordance with article 74 of the Constitution, entitled "Right of petition", Turkish citizens have the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to requests and complaints concerning themselves or the public. The said article also stipulates that the result of the application shall be made known to the petitioner in writing.

67. The system on how the right of petition is used is determined in Law No. 3071 of 1 January 1984, entitled "The Use of the Right of Petition". According to this law, the result of the process initiated upon a request or complaint of a Turkish citizen concerning himself or the public shall be made known to him in no later than two months (art. 7). The law also regulates the right to make a petition to the Grand National Assembly.

C. State bodies with jurisdiction in human rights

68. The domestic institutional framework in Turkey with respect to the protection and promotion of human rights is being progressively strengthened.

69. The Human Rights Inquiry Commission of the Turkish Grand National Assembly was established by Law No: 3686 on 5 December 1990 in order to protect and promote human rights in Turkey in accordance with contemporary universal values. Among the various tasks assigned to the Commission by Law No. 3686, the following should be emphasized;

(a) To follow developments related to human rights in international forums;

(b) To determine the changes which have to be made in order to ensure the conformity of the Constitution and national legislation with the international conventions on human rights to which Turkey is a party and propose legislative amendments to this effect;

(c) To submit, upon request or on its own initiative, opinions and proposals concerning topics on the agenda of other specialized Commissions of the Turkish Grand National Assembly which fall within its area of competence;

(d) To examine the extent to which human rights practices in Turkey comply with the requirements of the Constitution, national legislation and international conventions to which Turkey is a party and, to that end, to carry out research and propose improvements and remedies;

(e) To examine applications relating to alleged violations of human rights and to forward these to the relevant authorities when it deems necessary;

(f) To examine, where necessary, violations of human rights occurring in other countries and to bring these violations to the attention of the parliamentarians of the country concerned, either directly or through existing inter-parliamentary forums.

70. The Commission consists of 25 members. The chairman and members of the Commission are elected by the TGNA from among its members. Political party groups and independents are represented in the Commission according to the ratio of their seats - with the exception of vacant seats - to the total number of seats in Parliament. Two elections are held during one legislative period to determine the members of the Commission. The duration of assignment for those elected during the first round is two years, and the duration of assignment for those elected during the second round is three years. The expenses of the Commission are met from the general budget of the TGNA.

71. The Human Rights Inquiry Commission possesses extensive powers of investigation. In the performance of its duties, it is empowered to request information from Ministries and other government departments, local authorities, universities and other public institutions as well as private establishments, to conduct inquiries on their premises and to invite the representatives of these bodies to appear before it and provide information. If it deems necessary, the Commission may also refer to the knowledge of experts who it selects and may conduct its work outside Ankara. The Commission may conduct its activities through the establishment of sub-commissions.

72. The Commission submits an annual report as well as ad hoc reports it prepares concerning the discharge of its duties and issues within its mandate to the Presidency of the Turkish Grand National Assembly. Upon the agreement of the Consultative Council, these reports may be included in the agenda of the General Assembly to be discussed. The Commission's reports are also submitted to the Prime Ministry and the related ministries. If the Commission deems it necessary, the reports may be transmitted by the Presidency of the Turkish Grand National Assembly to the authority concerned with a request for the specific deficiencies

pointed to therein to be remedied. The Commission may also refer a specific case considered by it to the judiciary with a request for the initiation of the prosecution of officials who are alleged to be at fault.

73. The Commission can receive individual applications directly. There is no specific condition as to the filing of complaints. Any citizen may submit a petition to the Commission with regard to alleged infractions by official authorities in the area of human rights. All applicants are informed within three months at the latest of the results of the inquiries undertaken with respect to their applications.

74. Over 5,000 applications pertaining to various matters have been made to the Human Rights Inquiry Commission since 1 March 1991, when it became operational. These applications are highly useful for determining the issues where citizens' complaints are concentrated, as well as reflecting the areas of public administration which are in most urgent need of reform.

75. In addition to the above-mentioned parliamentary commission, a wide array of institutions with competence for human rights that are attached to the Government have been established in Turkey. In this respect, a Minister of State in each Government since 1991 has been entrusted with special responsibility for human rights.

76. The status of internal organizational structures within the Government concerning the protection of human rights has been further upgraded and strengthened by Law No. 4643, which was approved by Parliament on 12 April 2001 and entered into force on 21 April 2001. This law established the Human Rights High Council, which had previously functioned since 1997 as the Human Rights Coordinating High Committee. Human rights work within the Government is spearheaded by the High Council, chaired by the Minister of State responsible for human rights. The undersecretaries of the Prime Ministry and of the ministries of justice, interior, foreign affairs, national education, health and labour are members of the High Council. The High Council, with a view to increase its productivity, may invite high-level officials of other public institutions or representatives of non-governmental organizations which carry out activities in the field of human rights, as well as academicians who specialize in human rights, to participate in its meetings, which are held once a month.

77. The Human Rights High Council is entrusted with making recommendations to the relevant ministries and public institutions and proposing draft legislation in the context of the protection and promotion of human rights. The High Council also investigates allegations of human rights violations in Turkey, the results of which are made public periodically. The High Council may also receive individual complaints on human rights and forward them to the related authorities for action. The High Council, which has formed several sub-committees to maximize its efficiency, has to date taken a high number of legal and administrative decisions and has seen to the implementation of some of them, while setting a timetable for preparatory work on the remaining ones.

78. By Law No. 4643, a Human Rights Department affiliated to the office of the Prime Minister, which is entrusted with coordinating the work of various government agencies in the field of human rights, has also been created. The Human Rights Department functions as the

secretariat of the High Council. The staff of the department is composed of personnel appointed by the ministries represented in the High Council. The principal functions of the Human Rights Department are as follows:

(a) Coordination between human rights units of relevant public institutions;

(b) Ensuring compliance with provisions regarding the protection and promotion of human rights in relevant legislation;

(c) Coordination of work towards aligning Turkey's human rights legislation with international instruments to which Turkey is a party and making proposals to this effect;

(d) Coordination of in-service training in the field of human rights for members of relevant official bodies;

(e) Investigation of complaints and allegations regarding violations of human rights and coordination of measures to be taken for remedying them.

79. With the said law, a Human Rights Advisory Council has been set up within the Prime Ministry, which will serve as a link between government bodies and non-governmental organizations on human rights issues and provide advice to relevant institutions on domestic and international matters with respect to human rights. The Advisory Council will be composed of representatives of public institutions and non-governmental bodies; it will make recommendations and present reports on the protection and promotion of human rights.

80. Law No. 4643 also provides for the establishment of human rights inquiry delegations, composed of representatives of official and non-governmental bodies, which will investigate allegations regarding human rights violations locally and report their findings to the relevant authorities.

81. By a Government regulation dated 2 November 2000, Human Rights Councils have been established in all provinces and districts throughout Turkey. These councils, which have immediately begun to function, are entrusted with investigating complaints and allegations regarding human rights abuses, transmitting their findings to the relevant authorities and providing information to local communities about human rights. Representatives of local municipalities, universities, bar associations, medical chambers, trade and industry chambers, non-governmental organizations and media institutions as well as government officials are represented on the councils.

82. To further augment the domestic institutional framework regarding human rights protection, the draft law on the creation of the institution of public inspector, which will function as an ombudsman, has been presented to Parliament and is currently on the agenda of the Justice Commission. The mandate of this institution, which is intended to be consistent with universal norms and compatible with conditions prevalent in Turkey, will be to protect and uphold the rights of individuals against infractions by official bodies.

D. Status of international human rights instruments under Turkish law

83. Article 90 of the Turkish Constitution, entitled "Ratification of international treaties", states that "international agreements duly put into effect carry the force of law". Thus, agreements adopted by the Turkish Parliament by a law of ratification directly become a part of domestic legislation and their provisions have priority over other domestic laws, since the same article of the Constitution stipulates that, contrary to domestic laws, "no appeal to the Constitutional Court can be made with regard to these agreements, on the ground that they are unconstitutional". Thus, in accordance with article 90 of the Constitution, the provisions of international human rights treaties ratified by Turkey may be directly invoked before Turkish courts.

84. Turkey, a founding member of the United Nations, was one of the first countries to adopt the Universal Declaration of Human Rights, adopted on 10 December 1948 by the General Assembly of the United Nations, by Decree No. 9119 of the Council of Ministers, dated 6 April 1949. Turkey, which is also a founding member of the Council of Europe, ratified the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms by Law No. 6366, dated 10 March 1954.

85. On 28 January 1987, Turkey recognized the competence of the European Commission of Human Rights to receive petitions from any person, non-governmental organization or group of individuals. On 22 January 1990, Turkey made a declaration recognizing as compulsory ipso facto and without special agreement the jurisdiction of the European Court of Human Rights in all matters concerning the interpretation and the application of the European Convention on Human Rights which relate to the exercise of jurisdiction performed within the boundaries of the national territory of the Republic of Turkey. Turkey signed the Ninth Additional Protocol to the European Convention on Human Rights, which prescribes the right of individual petition to the European Court of Human Rights, on 6 November 1990.

86. Turkey ratified the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment by Law No. 3411, dated 25 February 1988, and became a party to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following the enactment of Law No. 3441 by Parliament on 21 April 1988. Upon its ratification of the United Nations Convention, Turkey recognized, through a written declaration as foreseen in article 21/1, the competence of the Committee against Torture to receive and consider communications to the effect that it is not fulfilling its obligations under the Convention from States parties as foreseen in article 21/1 and from or on behalf of individuals subject to its jurisdiction as foreseen under article 22/1.

87. In addition to the above, Turkey has signed or ratified the following United Nations and Council of Europe instruments pertinent to the protection and promotion of human rights:

(a) United Nations instruments:

- The 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Law No. 5630, 29 March 1950);

- The 1951 Convention relating to the Status of Refugees (Law No. 359, 5 September 1961);

- The 1967 Protocol relating to the Status of Refugees (Council of Ministers Decree No. 6/10266, 1 July 1968);

- The 1952 Convention on the Political Rights of Women (Law No. 7288, 2 June 1959);

- The 1966 International Convention on the Elimination of All Forms of Racial Discrimination (signed on 13 October 1972);

- The 1966 International Covenant on Civil and Political Rights (signed on 15 August 2000);

- The 1966 International Covenant on Economic, Social and Cultural Rights (signed on 15 August 2000);

- The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (Law No. 3232, 25 June 1985);

- The 1999 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (signed on 8 September 2000);

- The 1989 Convention on the Rights of the Child (Law No. 4058, 11 December 1994);

- The 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (signed on 8 September 2000);

- The 2000 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (signed on 8 September 2000);

- The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (signed on 13 January 1999);

(b) Council of Europe instruments:

- The 1952 Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (Law No. 6366, 10 March 1954);

- The 1963 Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the First Protocol thereto (signed on 19 October 1992);

- The 1984 Protocol No. 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (signed on 14 March 1985);

- The 1994 Protocol No.11 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby (Law No. 4255, 14 May 1997);

- The 1957 European Agreement on Regulations Governing the Movement of Persons Between the Member States of the Council of Europe (instrument of ratification deposited on 25 May 1961);

- The 1961 European Agreement on Travel by Young People on Collective Passports Between the Member States of the Council of Europe (instrument of ratification deposited on 14 September 1962);

- The 1961 European Social Charter (Law No. 3581, 4 July 1989);

- The 1988 Additional Protocol to the European Social Charter (signed on 5 May 1988);

- Protocol No. 1 of 1993 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Law No. 4327, 4 April 1997);

- Protocol No. 2 of 1993 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Law No. 4327, 4 April 1997);

IV. INFORMATION AND PUBLICITY

88. In addition to legislative and administrative reforms in this regard, the Turkish authorities make intensive efforts to disseminate awareness of human rights through education. In line with this aim, compulsory courses on "Citizenship and human rights" have been included in curricula of primary schools. Moreover, optional courses entitled "Democracy and human rights" are being offered in high schools. New human rights centres in various universities have been established, in addition to existing ones. Courses on human rights have been introduced in preparatory programmes for civil service candidates.

89. To coordinate efforts and activities in the field of human rights education and information, the National Committee for the Decade of Human Rights Education was established by the Human Rights High Council in 1998 to function as an advisory body during the United Nations Decade for Human Rights Education. The Committee consists of 15 members,

including one representative each from the Prime Ministry and from the ministries of justice, interior affairs, foreign affairs, national education, health and culture, representatives of four non-governmental organizations active in the field of human rights, as well as four academicians known for their work in human rights. The Committee has prepared the Human Rights Education Programme of Turkey (1998-2007) by taking into consideration the relevant guidelines and principles set forth in the United Nations Action Plan on Human Rights Education. The National Programme was adopted by the High Council in July 1999 and forwarded by the Prime Ministry to all relevant authorities for implementation. The Programme envisages intensified human rights education, especially for civil servants employed in the field of law enforcement.

90. The National Committee is tasked with monitoring the implementation of the National Programme and cooperating with governmental and non-governmental organizations and the media to increase public awareness on human rights education. The National Committee has identified the following principal target groups in the context of the National Programme:

- Teachers who teach courses on human rights in schools;
- Law enforcement officers (judges, public prosecutors, penitentiary personnel, police, gendarmerie and other public officers);
- Members of the mass media;
- Members of non-governmental organizations which carry out activities related to human rights;
- Social workers and personnel at Community Centres who provide education in human rights for families living in economically and socially underprivileged sections of cities.

91. In line with the Human Rights Education Programme of Turkey, all official institutions directly concerned with human rights practices have intensified training programmes related to human rights which they are implementing as part of their respective in-service training curricula.

92. In this respect, training courses covering human rights have become mandatory for candidate judges and public prosecutors during their two-year probationary period at the Training Centre for Judges and Public Prosecutors. The Ministry of Justice has included human rights in the in-service training provided for judges and public prosecutors who enter the profession after they successfully complete their probationary period. Judges and public prosecutors are receiving human rights courses in cooperation with the Council of Europe and other international organizations. Also, bilateral programmes have been initiated with a number of countries with a view to the training of judges and prosecutors in the field of human rights.

93. In addition to the inclusion of human rights courses in training curricula, the Ministry of Justice is also organizing periodic in-service seminars for members of the judiciary at various levels, where participants are informed about Turkey's obligations under the relevant United Nations conventions, OSCE documents, the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the effects of these instruments in Turkish domestic law and rulings of the European Court of Human Rights with respect to Turkey. In the course of these seminars, judges and prosecutors are informed in particular about how the provisions of these instruments can be raised by defendants and included ipso facto in court decisions as they have become part of Turkish domestic legislation.

94. Human rights education is also being provided to prison superintendents, as well as physicians, psychologists, social workers and teachers employed in penal institutions. Prison guards and security officers of penal institutions also receive candidate training for a period of one year covering professional subjects and human rights in accordance with the provisions of the Regulation on Training for Candidate Civil Servants Attached to the Ministry of Justice before their permanent appointment. Further, the human rights education of prison staff is being supplemented through the distribution of books, handbooks and other relevant documentation prepared by experts and academicians to all penitentiary institutions.

95. The intensification of the education of members of law enforcement agencies is considered to be a particularly useful means for promoting the implementation of human rights. In this framework, courses on human rights have become mandatory in the curricula of the Police Academy and Police Colleges since 1991. Textbooks which are used in these courses incorporate the letter and spirit of the relevant United Nations and Council of Europe conventions as well as other international instruments. Law No. 4652 on the Higher Education of Police, which was prepared in line with the recommendations of the National Committee, was adopted by Parliament on 25 April 2001 and came into effect on 9 May 2001. With this law, the 26 police schools all over Turkey, which formerly trained police officers for nine months, have been converted into two-year vocational schools with an expanded emphasis on human rights education.

96. In the period covered by this report, a number of periodic seminars, conferences and workshops have been held as part of the human rights training work being carried out for staff of the Ministry of Interior at various levels. These seminars cover topics such as human rights provisions in Turkish domestic law, the duties and responsibilities of senior administrators and law enforcement officers with regard to human rights under the international conventions to which Turkey is a party as well as under domestic legislation, Turkey's human rights obligations under the United Nations, Council of Europe and OSCE conventions and documents, the powers, working methods and procedures of the United Nations Committee against Torture and the European Committee for the Prevention of Torture and rulings of the European Court of Human Rights.

97. The said seminars are mainly intended for senior administrators (province and district governors) and senior police and gendarmerie officers, who are jointly responsible for security

and law and order in the provinces and districts, and are in practice required to coordinate the operation of these services. However, it is ensured in practice that activities of this type benefit not only senior staff, but also personnel working in units whose duties bring them into direct contact with the public. Accordingly, within the framework of the Project for the Human Rights Education of the Ministry of Interior and Its Affiliated Institutions, which was prepared in collaboration with the National Committee, the Ministry of Interior is planning to systematically provide professional training directly related to human rights to the heads and lower ranking personnel of the provincial security directorates' law and order, mobile squads, security, traffic and trafficking/organized crime departments and to continue until all personnel has received awareness training.

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